

Parliament

B. 2. 1
76. 18

THE
CASE
OF THE

Merchants and Traders

In and about the City of London,

On behalf of themselves and the Traders of the Kingdom.

*Humbly Offer'd to the HONOURABLE HOUSE of COMMONS;
Relating to the Bill now depending, for Relief of Insolvent Debtors.*

THAT the Frequency of such Laws, tho' never so well design'd, tend to the Destruction of Credit and Trade; and it is to be feared, will involve many of the industrious and fair Traders in the like, or as bad a State, as those Persons intended to be relieved by this Bill.

It is humbly hop'd, that Provision shall be made in this Bill to obstruct such designing Persons, who having the same in View, have or may be prepar'd to take the Advantage thereof, by being charg'd with Actions at the of their Friends, on purpose to defraud their just Creditors who have no ways lefted them.

To prevent Abuses; It is humbly prayed, that no Person, not in Prison before the 23^d. Day of April, and shall continue so 'til discharged, be relieved thereby.

That such Confinement be certified by some credible Person, besides the Goaler upon Oath; it being demonstrable, That above 1000 Persons were discharged upon the last Act from the *Clink* Prison in *Southwark*, wherein Twenty Persons were never known to be confin'd a Month together: *Besides* other Instances of the like Nature.

That every Goaler shall deliver upon Oath at next Sessions, after the Commencement of the Act, a List of all his Prisoners on the 23^d. of April; at whose Suit and what Cause, unto the Clerk of the Peace, for Information of the Creditors.

That general Notice be given in the *Gazette* of the proper Names of the Prisoners, his or her Trade and last Place of Abode; and Notice left at the Houses of Creditors living within the Bills of Mortality, of all such Debtors as did live therein; and like Notice to be given to the Creditors of other Prisoners in the County where such Prisoners dwelt.

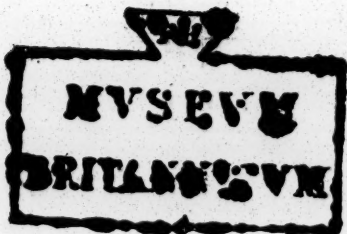
That the Prisoner's Oath may extend, That no Person or Persons, for the Use of his or her Families, to his or her Knowledge or Belief, hath concealed any of his or her Goods, Estate, or Effects whatsoever.

The last Clause of the Bill; That relates to Soldiers and Seamen will greatly affect all the Trading Ports of the Kingdom; as well Landlords as Tenants, and will endanger the Ruin of many Traders therein, who have assisted the Families of Sailors, whilst they served the Publick; there being but few Watermen or Seamen, but have been some time in the Service (tho' never so short) and will thereby be intituled to the Benefit of this Act.

As the last Act of this kind about Two Years ago for small Summs, had fatal Effect to many Traders; What may be the consequence of this Bill? if it should pass without any Restriction or Limitation.

Wherefore it is humbly prayed, that the Bill may not pass in so extensive manner: All which is nevertheless humbly submitted to Your Great Wisdom.

THE
CASE
OF THE
Merchants and Traders
Relating to the
Insolvent Debtors BILL.



T H E
C A S E
O F
S A R A H L O G G I N,
Wife of F R A N C I S L O G G I N, *Gent.*

THE said *Francis* and *Sarah Loggin* were Marry'd in the *Queen's Chapel* in *St. James's*, on the 10th Day of *October*, 1711, when she was under the Age of 23 Years, and Lived and Co-habited together (on her and her Relations Expences) 'till the beginning of *March* following, being upwards of Five Months; at which Time, by his Perswasion, she went to her Sister's in *Warwick*, where he came to her several Times, and there she continued 'till the beginning of *June* following.

THAT during her Continuance there, *Thomas Loggin*, his Father, discovered their Marriage, and obliged his Son to quit her Conversation, and made him Swear not to see her more, or do any Thing for her.

THIS Obliged her to come *London* (tho' Big with Child); and by herself, Letters, and Friends made Application to the said *Francis*, her Husband, for Money to Subsist and to Support her and her Child in her Lying-In; but he utterly refused.

THAT in *September*, 1712, she was Delivered of a Male Child (Still-born) and his Father (upon her Friend's Application to him, for Supporting or Relieving her in that Necessity) not only refused so to do, but came where she then Lay and Degraded her, denying her to be his Son's Wife, altho' she produced a Certificate, and took the Oath he required of her before a Justice of Peace then present.

THAT being in great Necessity, she was Obliged to Contract Debts to Supply her Occasions, at that and other Times; and in *March*, 1711, (when she Lived with her Husband) she was taken ill with the Small Pox, in which Sicknesse the said *Francis Loggin*, her Husband, desired her Brother to Assist her, or get any other Friend so to do, and he would certainly Repay him and them with a Grateful Acknowledgment.

THAT during his Departure from her, which was in *March*, 1711, and ever since, he (in order to free himself from her and her Friends Importunities for her having Subsistence from him) (by his Father's Direction) withdrew himself, and gave out in Speeches he was gone to *Holland*, in order to Travel: And that Pursuant thereto, a Person came to her and told her (in the Presence of her Brother and Sister) that a Gentlewoman acquainted her she saw her Husband *Francis Loggin* in *Holland*; and that he was there taken ill and Dyed, and she saw him Buried there.

THAT in *January*, 1712, The said *Francis* (acting by Guardian) commenced a Suit in the Consistory Court of *London*, against her for a Divorce, a *Mensa et Thoro*: And he being a Minor, the Chancellor refused to Decree her Alimony or Expences to be Paid Order to defend herself in that Court.

THAT the many Necessary Sums which have been Laid out, by the Advice, Direction and Approbation of the said *Francis* her Husband (some Part whereof he Received in Specie himself, whilst Lived with her) and the several Debts she hath been obliged to Contract, (since his Departure from her) for her Necessary Support of Life, have very much reduced herself and other her Relations and Friends.

IT is said by *Elizabeth Peacock*, in *Francis Loggin's* Case, That the said *Sarah* was 30 Years of Age when he Marry'd her, which is utterly False; for *Thomas Gardner* and his Wife, Father and Mother of the said *Sarah*, are ready to Prove her Age, that she is not now Six and Twenty; and as *Captain Overly* mentioned in the said Case, the said *Sarah* was but an Infant of Thirteen Years Old; neither she nor her Father nor Mother, never Knew nor Heard of any such Man, but that the said *Elizabeth Peacock* was Servant to the said *Sarah's* Father, who kept an Inn in *Warwick*, and that she went away with a Foot Soldier, and is an infamous Woman.

THEREFORE Your Petitioner Prays this Honourable HOUSE, That the several Debts and Sums (which was Contracted by the Advice of her Husband) which do not exceed 170*l.* may be Paid her to Discharge herself from the several Incumbrances she now Labours under; and that such Yearly Sum as this Honourable HOUSE shall think fit, for her further Support and Maintenance, may be Paid her during her Life, in Consideration of her Dower, which otherwise she will be deprived of; in Case the said Bill should Pass into a Law.

THE
C A S E

OF

SARAH LOGGIN,

Wife of RALPH LOGGIN, Genl

T

THE said Sarah and
on the 10th of May
lived and Co. had
beginning of the
P. 10. 10. 10. 10. 10.
and it is the content of the
THAT during the
time, and delivered
of the said Sarah
THIS is the said
Friends of the said
port of the said
THAT the said
Sarah and the said
to be the said
before the said
T. 10. 10. 10. 10. 10.
and the said
Sarah and the said
lived and Co. had
beginning of the
P. 10. 10. 10. 10. 10.

2 A B C

Wife of RALPH LOGGIN

576 m/1871

K-line

en blanc
Livres venant des Pays Etrangers, ne payent point
de Droits dans les Pays Etrangers - qua Raison
en. Jusqu'à 4. p. 100.

il y a une Taxe en Angleterre sur les livres en blanc
venant des Pays Etrangers à Raison de 7. Shill.
sur le 100. pesant. cela est égal à ce qui
se pratique ailleurs & tres raisonnable

il y a une Taxe sur les livres reliés Etrangers venant
en Angleterre de 25 p. 100. ad valorem
cela est raisonnable pour les livres Reliés neufs - pour
encourager les manufactures du cuir & du Carton
& les ouvriers en Angleterre

mais il n'est pas encourageant pour les Sciences & les
Etudes de mettre une Taxe sur les vieux livres
venant des Pays Etrangers. de 25 p. 100. ad
valorem. puis qu'il y a beaucoup de beaux
livres Etrangers anciens, qui ne se trouvent
pas autrement, que reliés, & dont le tiers
ou la moitié de ces mesmes livres reliés, sont
ordinairement reliés plus proprement en Angleterre
pour une seconde fois. ce qui donne de
l'occupation aux ouvriers en Angleterre

la Taxe que l'on a trouvée à propos de mettre
sur les Papiers en general. a donné occasion d'en
mettre sur les livres Etrangers avec l'intention
d'empêcher, que les Libraires d'Angleterre ne fassent
Imprimer leurs livres dans les Pays Etrangers -
le Papier & l'Impression y estant à meilleur
marché; mais cela n'est pas facile parce qu'ils
seront obligés de payer Interest & provision
à celui ou ceux qui auront soin de l'inspection
sur ces Impressions & comme il y a en Hollande
Droit de Sortie de 4. p. 100 & 7. Shill. p. 100 -
Droit d'Entrée en Angleterre outre les Risques
de la mer, reviennent les dits livres aussi cher
qu'étant Imprimés en Angleterre, & puis qu'il y a
des visiteurs on peut bien s'en servir pour arrêter les livres
qui auront été Imprimés dans les Pays Etrangers, pour

La Taxe en general sur la Librairie Decourage
& ruine le negoce de Librairie, puisqu'il y a
de tres bons livres en Angleterre qui sont souvent
propres pour les Païs Etrangers a Echanger avec
d'autres livres Etrangers. & ces memes livres restent
dans le Païs parce qu'on ne peut pas les transporter
& les Echanger contre d'autres livres qu'on rapporte
en Angleterre & pour lesquels il faut payer une
Taxe quand ils sont arrivés - ce qui Empêche le
plus grand avantage que l'on peut faire dans le
negoce de Librairie a ceux qui en ont connoissance
& les moyens de le faire

pour Encourager davantage a faire entrer de
bons livres en Angleterre, il est a propos de
retrancher l'ancienne Taxe de 25 ^q (oo ad
valorem sur les vieux livres reliés, & comme il est
Juste qu'il y ait quelque Droit sur l'entrée pour
Empêcher aussi qu'on ne fasse pas entrer des livres
nouveaux reliés dans le païs, le meilleur moyen
seroit de mettre 14 ^q de Droit sur le cent pesant
des livres reliés & cela dispenseroit de faire le serment
qu'on a fait jusqu'à present pour la valeur des livres



23 Dec: 1713 actually prisoners on main process shall take oath hereafter may
be released from imprisonment by justice or justices on their petition by word or sign
they taking the oath shall subscribe & deliver a schedule of his debt & names of
creditors & sums owing in open court, which shall be in justices & to be signed & recorded
notice to creditors — justice shall at request of creditor who appears give full and entire
aid actually on their refusal take oath, justly perceiving no person
perjury, house of correction
not liable to prosecution for debt before 23 Dec: 1713 then to give an appearance
no person discharged shall acquit any debt sum or any part
no person acquitted by his debtor to
have or have benefit of his not discharged before 23 Apr: 1716
all judgments had shall be good his or her person only except any new
execution to be taken out after 4 years from time of discharge his or her
person wearing apparel bedding for his or her family & tools necessary
for his or her occupation only except
any of them in the army or navy or in the service of the king or in the
before such service if present 23 Dec: last
no agent or master or concerned in docking any or in the
fleet
none of them shall stand in pillory

Note

stand thus viz^t.

The Bassett or 4
Batts or Eight

Besides which there
a New Duty of 30^d
each of the Imports

Which in proportion
annual produce is
than the Subsidy

All which Duties
weight cont^d 112,

The Duties on
according to value
211 &c

cms.	1	2	3	4	5
ins.	1				2
THE BRITISH LIBRARY					

NOTE the several Duties on Books Unbound stand thus viz. by 12 Car. 2. The Old Subsidy on the Baskett or Maund containing two
Batts or Eight Hundred weight — } — 00 : 8 : 0

1st Anne, New Subsidy — 00 : 8 : 0

2^d Anne, $\frac{2}{3}$ ^d Subsidy — 00 : 2 : 8

3^d Anne, $\frac{2}{3}$ ^d Subsidy — 00 : 5 : 4

W^m ad^l. Imposition — 01 : 12 : 0

02 : 16 : 0

Besides which there is laid by the 10th Anne a New Duty of 30th Cent according to the oath of the Importer;

Which in proportion according to the annual produce is about 20 times more than the Subsidy and will be — — — — — 08 : 0 : 0

10 : 16 : 0

All which Duties computed for every weight cont^d 112, will amount to — — — — — 1 : 7 : 0

The Duties on Books Bound and Prints are taken according to value sworn to by the Importer, and are viz.

Old Subsidy — — — — — 2⁵/₄ Cent

New Subsidy — — — — — 5 — — —

$\frac{2}{3}$ Subsidy — — — — — 1 : 13 : 4

$\frac{2}{3}$ ^d Subsidy — — — — — 3 : 6 : 8

Add^l. Impost — — — — — 5 : 0 : 0

New Duty — — — — — 30 : 0 : 0

50 : 0 : 0 Cent

Because of the Difficulties that arise in swearing to the value of Books and Prints, and particularly where they are Imported for private use and Curiosity,

It is proposed

1 As to Books Unbound That the Duty granted by the Act of the 10th of the Queen which is the only Duty taken ad valorem should be taken according to a certain Rate of 20 times more than the Subsidy being the proportion above-mentioned.

2 As to Bound Books That they likewise pay by a certain

certain Rate by the Weight to be sett thereon, which Rate is humbly offer'd considering the Foreign Materials of Leather, Past-board &c, & the Manufacture of Binding to be one half more than the several and respective Duties charg'd upon Books Unbound, and whereas by the aforesaid Computation the Duties of One Hundred weight of Unbound Books come to ———— L. 1: 7: 0

The same Duties in this Proportion
on Bound Books will be ———— } 2: 0: 6

Prints Unbound may pay Double the Duties of Books Unbound and the like proportion for the Binding of Prints (if they are Bound) ^{by} the same addition of L. 0: 13: 6 &c weight on all the Duties as on Books Bound, — which will be viz^t.

Prints Unbound the L^d weight ———— L. 2: 14: 0

Prints Bound the L^d weight ———— 3: 7: 6

Memorand^m Books and Prints of France will be subject to the further Duties following according to this proposal viz^t.

Unbound Books the L^d weight

4 & 5 N^o. 8 & 11. 11d. Impost ———— 0: 1: 0

7 N^o. 3 French Duty ———— 0: 5: 0

0: 6: 0

Bound Books ———— 0: 9: 0

Prints Unbound ———— 0: 12: 0

Quitto Bound ———— 0: 15: 0

I prepared for the above
early following the Dec
on Book 8 & 9.

An Acco^t of the produce of the several Duties upon
Books & Prints Imported into Lond^o and the Out Ports for
Two Years ended the 24th June 1713

From 24th June 1711 to Ditto 1712

Books Bound	Customs	10	18	-
	New Subsidy	10	18	-
	$\frac{1}{3}$ Subsidy	3	12	8
	$\frac{2}{3}$ Subsidy	7	5	4
	Ad ^e Imp ^o 9 ² 3	10	15	1 $\frac{1}{2}$
				43 9 1 $\frac{1}{2}$

Books Unbound	Customs	17	7	8
	New Subsidy	17	7	8
	$\frac{1}{3}$ Subsidy	5	15	10 $\frac{1}{2}$
	$\frac{2}{3}$ Subsidy	11	11	9 $\frac{1}{2}$
	Ad ^e Imp ^o 9 ² 3	68	12	5
				120 15 5

Prints	Customs	10	10	2
	New Subsidy	10	10	2
	$\frac{1}{3}$ Subsidy	3	10	0 $\frac{1}{2}$
	$\frac{2}{3}$ Subsidy	7	0	1 $\frac{1}{2}$
	Ad ^e Imp ^o 9 ² 3	10	7	5
				41 17

Total C^o of^e above Year 206 2

From 24th June 1712 to Ditto 1713

Books Bound	Customs	19	17	9 $\frac{1}{4}$
	New Subsidy	19	6	4 $\frac{1}{4}$
	$\frac{1}{3}$ Subsidy	6	8	9 $\frac{1}{4}$
	$\frac{2}{3}$ Subsidy	12	17	6 $\frac{1}{2}$
	Ad ^e Imp ^o 923	19	1	3
				178 3 3 $\frac{1}{2}$
				255 14 11 $\frac{1}{4}$

Books Unbound	Customs	7	2	4 $\frac{1}{2}$
	New Subsidy	6	17	6 $\frac{1}{2}$
	$\frac{1}{3}$ Subsidy	2	5	10
	$\frac{2}{3}$ Subsidy	4	11	8
	Ad ^e Imp ^o 923	27	2	10 $\frac{1}{2}$
				144 3 0
				192 5 3

Prints	Customs	5	3	8 $\frac{1}{2}$
	New Subsidy	5	2	2 $\frac{1}{2}$
	$\frac{1}{3}$ Subsidy	1	14	1
	$\frac{2}{3}$ Subsidy	3	8	1 $\frac{1}{2}$
	Ad ^e Imp ^o 923	10	13	2 $\frac{1}{2}$
				7 10 -
				52 7 2
				85 18 0

Total C^o of^e above Year 533 16 0

Customs & Land.
29. Apr. 1714.

Tho: Andrews Esq: Ch^r: Treas: & Sec^y:

In Acc^t of the Produce of
Hort. in the ^{For 1712} Garden, ended 24th.
June. 1713

ad utrum unum dimittere nefas — Ronculus primum lege lata uxorem in adultério
bonorum beneficio aut clauum adulatione dispensantem repudiari permisit: qui aliter
divortium facisset, ejus bonorum partem uxori d. ii, reliquum censi sacrum esse
esset; nulli autem maritum relinquere nullatenus voluit. caput propter infamiam
statum etiam divortia fieri. primus omnium Romae ab uxore divortio Spurius Corbilius, alius
filius Servilius Corbilius Ruge, cui hoc vitio datum est. Valer. Maxim. l. 2. c. 1. tandem
Comitarius primum repudia et divortia permisit, deinceps percreverunt. Juven. Sat. 6. l. 1.
per antea prius octo manibus nubebant. Galla ut ait apud Martialem: una die 7 habuit maritos,
ab omnibus divortio. Seneca contra debet. c. 16. nunquid jam ulla de non confilium
unum, si maritorum annos suos computant, et exdunt matrimonij causa, nubunt repudi?
Nulli. Apol. c. 6. circa annum 200 in feminis repudium et dolum erat profectus
matrimonij. hanc reprimendum Juv. Theod. et Valentin. in l. 8. consensu loc. lit. postea autem
triginta dicta l. 8. jura antiquum in rem vocatum, et ut consensu matrimonia dissolvi
possent, cautum est Novell. 140. — Mat. 19. 8. 9. et 1 Cor. 7. 11. Imperors dedit hoc legem populo
aslo Mosis, forba dicit offitio heart — concilio elibertino can. 9. statuitur, ut nulli
uxorem adulterum dimittit, aliter nuptie non liceat — in concilio Milevitano can. 17.
statuit ut secundum doangeticam et apostolicam disciplinam, ne dimissus ab uxore
re dimissa à marito aliter conjungatur, si ita maneat aut sibi reconcilietur, quod
contempsit, ad penitentiam redigatur — Justinianus Novell. 140. exhortatur ut utroque
althei possit de temporum licentia aliquantulum indulgentes leges de repudiis haberi.
cum sensu humane imbecillitatis. vide Grotium de jure belli l. 1. c. 4. n. 7.
in marrying he some years after by Juv. Theod. et Valentin. — nullatenus is qui
causam repudiij praeberat, si sponsa arras in duplum reddere debet: si sponsus, non
debet. l. pen. c. de spons. — repudium et divortium per inter nuncios — repudium
non rite factum pro infido habetur, et qui eam uxorem ducit, adulterij tenetur. l.
pen. d. ad leg. jul. de adult. — Dionys. Halicarn. lib. 2. statuitur libellum divortionum
primis et antiquis usip. R. impetitis non fuisse, ac propterea divortium Romae per
se nullum fuisse, quod confirmat Angelinus l. 7. c. 5. Plin. l. 7. c. 9.

Cent. 22. 22. omnino morientur pariter ambo —

Opilius macrinus Imp. in Julio Capitolino — adulterij eos semper vivos simul incendit
junctis corporibus — Massalina capite damnata est, ut adullna, l. 1. dione Cassio l. 66

jure civili ultimum supplicium ex C. ad L. Julianam de Ault. l. 9.

Sequenti saeculo mitius cavet Lex, exilium, et relegatio —

in regno Anglia à Reformatione legum Eccles. ex Autoritate primum H. 8. inchoata
et per regem Edoardum 6^{thum} procreta, nondum perfecta, nec firmiter stabilita, in
clericis, laicis, maritis et uxoribus eantem erat ut persona quae hujusmodi delicta
nefas vel in perpetuum allegaretur exilium, vel luebris et aeterna carceris custo
— dia manciparetur, vid. lit. de Adullatio cap. 2. 3. 4.

Ex eadem reformati juris censura (laicum in clericis durius severius animadvertabatur)
Adulterij damnatum uxori suae dotem restituere oportebat, bonorum insuper univer
sorum dimidiam partem eidem uxori (quo ei aliquatenus satisfecit) concedere, nam
uxoris pariter si crimen adulterij contra eas probatum fuerit, si iudex ad eas illas
promittit, omni doli bus carcebat, atq. omnibus emolumentis quae vel ulla regni Anglia
iure, vel consuetudine, vel pacto, vel promisso potuissent in bonis maritum ipsas
deservire, quae censura ex veteri Eccles. sententia originem duxisse visa est —
Gregor. lib. 4. de sent. l. 20 de donationibus inter virum et uxorem cap. 4.

Præter hanc dotis amissionem poena ordinaria ex jure Canonico alia est scilicet:
in laico excommunicatio, in Clerico depositio, in utroque etiam poenitentia. Laicus 7. annis
clericus 1. impositio, vid. Jus lit. juris Can. à Lancetotti edit. lib. 4. tit. 8. v. 1.

Cokeus in Littletonum lib. 1. c. 5. Sect. 36. sponsum virum mulier faciens, et adultera facta
stat. de Westm. 2. c. 34. anno 13. Ed. 1. Cetera sua carcat nisi sponte retracta —
Br. 105. h. lib. jur. 229. Plea lib. 5. c. 22. Br. c. 109. Fitz. H. M.

The most Sad, Deplorable, and Singular

C A S E

Of Robert Blackburne, who has Languish'd 19 Years
a Close Prisoner in Newgate.

APril 2d. 1696, the said *Blackburne* was Committed to *Newgate*, and the September following, putting in his Prayer, was Admitted to Bail at the Sessions House in the *Old-Baily*, and no Information coming against him, he was at the ensuing Sessions Discharg'd from his Bail, and Absolutely Acquitted. By this his Chargeable Confinement, having Contracted several Debts, and his Creditors being very Pressing upon him, he resolv'd to go for *Flanders*, where he had some Relations, from whom he might Reasonably expect some Assistance; and in order thereunto, he put himself on Board an *Offend Man of War*; but not being Able, for Want of Money, to procure a Pass, he was by Capt. *Nash*, His Majesty's Searcher, brought back to *London*, as a Suspicious Person, and Committed to the Custody of a Messenger; where, when he had remain'd for 3 or 4 days, he by his Solicitor, Represented his Case to Sir *William Trumball*, then Secretary of State: Upon the Consideration of which, Sir *William*, as the said *Blackburne* was Inform'd by his Solicitor, was Inclind to Discharge him; but he was still Delayed, till the Parliament, being about to pass a *Bill* for Continuing the Imprisonment of *FIVE* more, supposed to be concern'd in the Assassination of *King William*, (whereof the said *Blackburne* was Acquitted at the *Old-Baily*, as above-said) which *Bill* having pass'd the House of Commons, and the said *Blackburne's* Name not mentioned therein; and (altho' Legally Acquitted, as aforesaid) the said *Blackburne* was also Included in the said *Bill*, and Recommitted, and Continued in Prison with the other *FIVE*, by the Act that was then Ready to pass the House: And accordingly, tho' no farther Information appear'd against him, when the *Bill* pass'd the House of Lords, they, in their Amendments, Inserted the said *Blackburne*; Whereupon he was Recommitted to *Newgate* without ever being Examined, where he was kept two Years under so Strict and Rigorous a Confinement, that no Friend was suffer'd to speak to him, nor could he take any Measures to set forth the Hardship of his Case, or obtain any Redress.

He humbly Believes his C A S E to be Particular, in that he was never Acquainted with any one of those Persons who have been put to Death for the late Conspiracy; Nor did he so much as ever know any, or either of those whom he is in Prison with, until their Confinement. And besides, he desires it may be Observ'd, That he is not one of those Persons for whom a Thousand Pounds was paid for the Apprehending.

Midd. ff. **A**D Deliberat' Goal. Dom' Regis de Newgate, tent' pro Com' Middlesex, apud Justice Hall in le Old-bayly, in Sub Urbis Civit. London. die in Cur' Scil. nono die Septembris, Anno Regni Dom. Gulielmi tert' nunc Regis Angl. &c. Octavo.

Robertus Blackburne, tradit. in Bal. in Curia Deliberat'

Vera Copia Exact.

Per Matth. Smith, Cler' &c.

Per Cur'

HARCOURT.

THE

Most Sad, Deplorable, and Singular

CASE

OF *Robert Blackburne*, who has Lan-
guish'd **19** Years a Close Prisoner
in Newgate.

OBSERVATIONS

Relating to the BILL for Relief of Insolvent Debtors, humbly offer'd to the Honourable House of Commons.

TH E R E hath lately been many Acts of this Kind, and by the last, Multitudes of Persons not in Prison, have obtain'd Discharges, to the great detriment of Credit and Trade, and utter Ruin of many Persons and Families, as well Debtors as Creditors. Many Jail-Keepers (particularly of the *Clinck-Prison*, who certify'd for more than 1000) have seduced great Numbers to enter themselves Prisoners, in order to obtain Duplicates, many of which when procured (being Illegal) have prov'd of little Service.

And though the Creditor (if sue) might possibly obtain a Verdict, it could be of no use except to confine the Debtor, who before the Act was free, and by Care and Industry, in Time, able to make reasonable Satisfaction; but now made incapable by the Extortions of Jaylers, and Charge of Defending the Suits commenc'd against him, by his before kind, but after, enrag'd Creditors. Therefore it is most humbly propos'd to Consideration, Whether the following Observations and Propositions of Amendment, may not intirely Answer the End of poor Prisoners actually confin'd, and prevent the Evil Practises of Jaylers, and such Debtors, who rather than pay their just Debts, will spend double the Money to defraud their honest Creditors.

1. That the Day on which Prisoners (taking the Benefit of this Act) are to be confin'd, be set so far back, that none entring on purpose may obtain Discharges.

2. That the Words (in Custody of an Officer) be omitted.

3. That every Prisoner, not only swear that he was a *Prisoner*, on the Day of — but that he continu'd actually so, to the Time of his Discharge.

4. That Wearing-Apparrel, Bedding, Tools, and Implements of Trade and Occupation, reserv'd by each *Prisoner*, be not exceeding a certain reasonable Value.

5. That the Trade, &c. and last place of Abode, as well as the Name of every *Prisoner*, and also at whose Suit detain'd, be incerted in the *London Gazette*.

6. That the List of *Prisoners* exhibited by Jaylers may be seen without Fee or Reward.

7. That the Jayler, &c. swear, That the *Prisoner* continu'd an actual *Prisoner* from the Day of — to the Time of his intended Discharge.

8. That a reasonable Time be allow'd for Conviction of Perjury, it being probable that such as clandestinely obtain Discharges, will conceal themselves till a short Time may be elapsed.

9. That a Method may be observed by such as are appointed to put this Act in Execution, which may hinder those that hath been once hear'd and deem'd incapable of the Benefit of the Act, from being Re-heard, and fraudulently obtaining Duplicates, when the respective Creditors are not in the Way to oppose them.

**OBSERVATIONS on the
Bills, for Relief of
Insolvent Debtors.**

T H E
C A S E
O F T H E

People called *QUAKERS*,

With Respect to many of their Friends in South-Britain, and their Friends in general in North-Britain, who conscientiously scruple the Taking of the present AFFIRMATION.

OUR late Gracious Sovereign KING *WILLIAM* and the PARLIAMENT, being generously disposed, in Favour of *Liberty of Conscience*, were pleased, in the Year 1696, to grant us a *Solemn AFFIRMATION*, instead of an OATH, for which we were very thankful to God and the Government; whereby many of us have been not only delivered and defended from Imprisonments, vexatious Suits, Loss of Goods and Estates; but also have been enabled to serve our Country, and promote the Trade and Interest thereof: although in the Course of our Solicitation for Relief, it happened, that in the said *Parliament* the *Affirmation* was formed in Words different from what we desired; and many of our Friends Scrupling to *Attest* the Sacred NAME of GOD therein; notwithstanding they sincerely acknowledge his *Omnipresence*, and all other his Divine Attributes, have, by Means thereof, been deprived of its intended Benefit, and have been, and still will be (if not relieved) liable to great Sufferings and Discouragements in their lawful Callings, and advantageous Manufactures of this Kingdom.

Wherefore We, the People call'd *Quakers*, being very sensible of the good Disposition of our present Gracious KING and the PARLIAMENT towards *Liberty of Conscience*: and We having a tender Regard to our said Friends, and being desirous that They may be rendred Useful (when wanted) to their Neighbours, as *Witnesses*; as also that They may be the better qualified to contribute towards the Support of the present *Happy Establishment*, as well as the *Trade* of their Country; Do humbly Entreat the Honourable HOUSE OF COMMONS, to make such an Alteration in the present Bill before the House, as that our *Affirmation* may be in the following Terms, *viz.* **I A. B. do sincerely Declare and Affirm**; which, on Enquiry, We find will be generally easie to our Friends, and, with Submission, conceive will very well answer the Intent of Law and Justice, since the Penalties, here, in Case of Falshood, will carry the same Legal Security as they do in Perjury. An Indulgence, of the Nature of what we here desire, hath been granted to the *Menists* by the States of *Holland*, which they have enjoyed more than one Hundred Years.

CASE

Of the People call'd

QUAKERS.

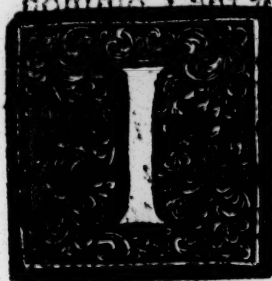
With Respect to the present
AFFIRMATION.

576 on 18
15
The most Sad and Deplorable

C A S E
O F

Robert Blackburne, John Bernardi, Robert Caffills,
Robert Meldrum, and James Chambers.

Humbly presented to the Parliament of Great Britain.



In March and April 1696, we were committed to Newgate. The Crime mentioned in the Warrants was for High-Treason, in conspiring the Murder and Assassination of His late Majesty King William, *Vide Commitment.* but without any Proof, not so much as the Oath of one single Witness against any of us: Nor is it otherwise specified in the Warrants.

Upon our Commitment, no Person but our Jaylor and his Servants was permitted to speak with us: We were denied the Use of Pen, Ink, and Paper, debarred of all Comforts and Conveniencies, and under great Hardships as to the very Necessaries of Life; our Confinement being so strict, that even our Food and Linnen were searched, to prevent the least Communication.

This rigorous Treatment we suffered for the Space of two Years, without the least Intermision or Relaxation, save that in September 1696, Blackburne was bail'd at the Old-Baily, and in Michaelmas Term following Chambers was brought up by Habeas Corpus to the Court of King's-Bench at Westminster, but remanded, because one of his Bail could not swear to the Value the Court required. And Bernardi, Caffills, Meldrum, and Chambers were once carried to the Session

Vide Affid^o Tho' Crane, Will' Robinson, Ric' Ofman.

'Affidav^o Tho' Crane, Will' Ro-

CASE

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Vide Affid^o Tho^s Crane, Will^m Robinson, Ric^d Ofman.

Affid^o Tho^s Crane, Will^m Robinson, Ric^d Ofman, Will^m Grove, Regul^r Cur^r.

Certif^r Cler^g Pacis.

In the 7th and 8th of King *William*, and since, several Acts of Parliament have been made for continuing our Imprisonment from Time to Time, but all of them expired at the Demise of Her late Majesty Queen *ANNE*; and in the last of these Acts, viz. *Primo Anna Reginae*, it is expressed, that we should be then set at Large, unless some farther Provision were made for the Continuance of our Imprisonment.

Primo Anna, Fol^o 452.

In last *Michaelmas* Term, we, having entered our Prayer to be tryed pursuant to the Directions of the *Habeas Corpus* Act, were brought up the last Day of the Term by *Habeas Corpus*, and had our Bail in Readiness according to the Directions of the Court, but were remanded to Prison. When we were brought up, the Court declared to us, that they had a Discretionary Power to bail or discharge us, but wou'd not do it till after another Session of Parliament, although there then had been one Session since the Demise of Her late Majesty, in which no Provision was thought fit to be made for continuing us in Prison; but several other Laws were continued, there being Provision then made for all Laws that were expiring, or lately expired.

When we entered our Prayers at the *Old-Baily*, it was objected to us, that we cou'd have no Benefit of the *Habeas Corpus* Act, because we had not claimed it the first Session after our Commitment: But how was it possible for Persons under such unhappy Circumstances, and so strict Confinement? If the Restraining us from Pen, Ink, and Paper, and all our Friends, was Illegal; surely, no Advantage of that ought to have been taken against us. If Legal, then it is a Justification for our not entering our Prayer in Time: For *Lex non cogit ad impossibilia*. And if such Confinement be good in Law, there is an End of the *Habeas Corpus* Act: For in case the Committing Power does but direct the Prisoner to be kept without Pen, Ink, and Paper, and the Access of Friends; he must be under an utter Incapacity of entering his Prayer in Time; and consequently, the whole Force of that Law, which is the great Barrier of the Liberties of *English* Subjects, may be entirely eluded.

We had no Opportunity of being heard against the several Acts that have been made against us; being without Liberty, Friends, Money, or Counsel. We scarcely knew that such a Bill was brought in, before it was passed; and now we are informed, that there is a new Bill against us in Parliament, entituled, *An Act for continuing the Imprisonment of Robert Blackburne, and others, for the horrid Conspiracy to assassinate the Person of His late Sacred Majesty King William the Third.*

Of this Charge, we, and each of us, do solemnly declare ourselves to be Not Guilty, and only desire a fair and legal Opportunity to make our Innocence appear: We have already under-

undergone a Confinement worse than Death, and the Not clearing our Innocence, is worse than our Confinement. And all this without any legal Evidence given, or so much as offered to be produced against us, either in Parliament, or elsewhere. Nothing more than a bare, groundless Presumption of Guilt. This surely is without all Precedent: God grant it may never hereafter be made one! Though now 'tis our Case alone, yet the Liberties of all Englishmen are highly concern'd in it.

The former Acts that were made against us, were temporary and of a short Duration, made upon a Supposition that some Proof would appear, that could have convicted us. But since none hath hitherto been found, since those Acts were limited to a determin'd Time, the Intention of them could not be, to make our Imprisonment perpetual. Even those very Acts do now seem to give us a Right of being restor'd to Liberty. And in this Bill, which is now depending against us, there is, as we are inform'd, a Clause which says, That we should Now be discharged, unless farther Provision be made for our Confinement.

Presumptions of Law are always in Favour of Innocence. The Maxim of the Common Law is, *Quisque esse innocens presumitur, donec in contrarium probetur.* We pray the Benefit of England, do humbly pray the Benefit of English Laws. We pray the Benefit of

Cap. 29. *Charta*, wherein it is enacted: *Nullus Liber homo capiatur, nec super eum ibimus, nec super eum mittemus, nisi per legale suorum, vel per legem terra.* Nulli vendemus, nulli negabimus, aut differemus, nisi per legale *rectum.* We humbly pray the Benefit of the Habeas Corpus Act, 21st Car. 2^d Sect 6, 7. Law of England, the Law of G.O.D, and the Law of Nature, and the late most Gracious Declaration of His present Majesty, whereby he promises inviolably to defend and maintain the Rights, Liberties, and Properties of All his Subjects.

Robert Blackburne,
Robert Cassills,
John Bernardi,
Robert Meldrum,
J. Chambers.

Deut. i. 17. *We shall not respect Persons in Judgment, but you shall HEAR the Small as well as the Great.*
Joh. vii. 50, 51. Nicodemus saith unto them, *Doth our Law judge any Man before it HEAR him?*

Humbly presented to the Parliament
of Great Britain.
Robert Blackburne, Robert
Cassills, &c.

The most Sad and Deploable
CASE
OF

Cms.	1	2	3	4	5
Ins.	1	1	1	1	1
THE BRITISH LIBRARY					

T H E
C A S E

Of *Francis Loggin*, and also of *Thomas Loggin*, of
Butlers Marston, in the County of *Warwick*, Gent.
and *Jane* his Wife, on the Behalf of *Francis*, their
Son and Heir apparent, against *Sarah Gardner*.

April, 1711. **F***RANCIS Loggin*, when he was under the Age of Nineteen Years, unhappily fell into the Acquaintance of *Sarah Gardner*, who was about the Age of Thirty, a Woman of a Lewd Behaviour and Infamous Character, as has since fully appeared.

October 1711. *Francis Loggin* was seduced privately to Marry *Sarah* without any Licence, and without the Consent or Privity of his Father, Mother, or any other Friend; and afterwards it being discovered that *Sarah* frequented Lewd Company, *Francis Loggin* left her, and did never Converse with her since *April, 1712*.

Decemb. 1712 *Sarah* Adulterously Co-Habited with one Mr. *Saunders*, and took upon herself his Name for the space of Six Weeks, and lay together as Man and Wife, as was fully proved in *Doctors Commons* by no less than Six Witnesses of undoubted Credit. Whereupon the said *Francis Loggin*, by *Thomas Peers*, Esq; his Guardian, Prosecuted *Sarah* for the Crime of Adultery in the Spiritual Court.

4 May, 1713. Upon Full and Clear Evidence, *Francis* then obtained a Divorce against *Sarah*, a *Mensa & Thoro*, but by the said Sentence he is Enjoyned not to Marry again in the Life-time of the said *Sarah*, and to give Security for that Purpose; so that the Marriage cannot be dissolved, and Security discharged and declared Void, but by the Authority of Parliament.

There is no Issue by this Marriage; and since this Divorce, *Sarah* has caused an Action at Law, and threatens several others to be brought against *Francis Loggin*, in Order to put him to Daily Expence and Trouble.

Thomas Loggin, and *Jane* his Wife, Father and Mother of *Francis Loggin*, are of very good and antient Families, and seized of a considerable Real Estate, and have only Two other Children, who are incapable to provide for themselves, in regard they are both of them Deaf and Dumb; so that their whole Family are likely to be Ruin'd by this unhappy and fatal Disaster; for that her Spurious Issue may pretend to Inherit the Estate of this Antient Family, unless the Marriage be declared Void, and *Francis* be at Liberty to Marry again.

Therefore the End of the Bill is, That the said Marriage may be Absolutely Dissolved, and that the said *Francis* may be at Liberty to Marry again.

A N

ABSTRACT

Of Depositions taken in the Bishop of London's Court, on the Part of *Francis Loggin* against *Sarah*, his late Wife, formerly *Sarah Gardner*, touching her Adultery.

Elizabeth Peacock.

THAT *Francis* was about the Age of Nineteen Years when he Married the said *Sarah*, who was then about Thirty, as the Deponent believes; and that the Deponent, when she lived with the said *Sarah's* Father, saw her Naked in Bed with one Captain *Overley*, and taking Notice of it to the said *Sarah*, she said, *Damn it, I had rather be without a Meal's Vi-ctuals, than without a Man's Company*; and desired her to take no Notice of it, and believes the said *Sarah* was a very Vicious and Lewd Woman, from what she has observed and seen.

Tho. Biggle-stone.

That one Mr. *Saunders* took Lodgings of him and his Wife in *Tower-street*, in *December, 1712*, and that *Saunders* told him he took the same Room for him and his Spouse, and that they came together and took Possession of the said Room, and that they carried and behaved themselves to each other as *Man and Wife*, and such this Deponent and his Family did really esteem them to be, they having but one Room and one Bed, and Lying together, save only when *Saunders* was absent for about a Fortnight, or Three Weeks, and verily believes, that they had the Carnal Use and Knowledge of each other's Body.

Eliazbeth, the Wife of Tho. Biggle-stone.

The same, in Effect, with her Husband, and that she often in the Mornings saw them Naked together in Bed, as *Man and Wife*, and believes that they had Carnal Knowledge of each other's Body, and that on *Saturday Morning on January 10, 1712*, the Deponent went up Stairs with four Gentlemen, and there found the said *Sarah* and *Saunders*, Naked in Bed together, between the Sheets, and asking her how she could do such a thing when she was a Wife? She answered, *She was informed her Husband was dead.*

Elias Sutton.

That he saw *Saunders* and *Sarah* Naked in Bed together, and he asking her how it came to pass? She said, *Her Husband was dead.*

Wm. Newsham

That he saw them Naked in Bed together, and that *Saunders* said, *She was his Wife, and that if she was not a Widow, she had deceived him.*

Walter Grace, Apparitor of the Bishop of London's Court.

That he saw the said *Saunders* and *Sarah* naked in Bed together in *Biggle-stone's House in Tower-street*, and that he then served her with a Citation; and that she then owned herself to be the Wife of the said *Francis Loggin*.

Note, *Sarah* Cross-examin'd all the said *Francis Loggin's* Witnesses; but the Evidence being so clear and undeniable, *Sarah*, at the hearing of the Cause in the *Bishop's-Court*, did not appear, or cause any one to appear in her Justification: Whereupon, and upon Reading the said Depositions, and upon due Consideration of the Matter,

4 May, 1713. *Francis* then obtained against *Sarah* a Divorce, a *Mensa & Thoro.*

THE CASE

Of *Francis Loggin, Thomas Loggin, and
Jane*, his Wife, against *Sarah Gard-
ner*, for bringing in a Bill to Dis-
solve the Marriage between the said
Francis and Sarah.

With an

ABSTRACT

Of Depositions in the *Bishop's Court*,
taken concerning the Adultery of
Sarah Gardner, late Wife of *Francis
Loggin*, Gent. whereupon a Divorce
ensued between them.

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THE
CASE
OF THE

Officers of Lieutenant General *Hamilton's* late Regiment of Foot (Subjects of *Great-Britain*) Broke in the Service of the *States General* of the United Provinces.



THAT the said Regiment was Levied in Scotland, in the Year 1692. And was brought on the Establishment of *England*, in the Year 1694. and Served in *Flanders* on that Foot, until the Peace of *Ryswick*.

That in the Year 1701. the said Regiment was sent over, by his late Majesty King *William*, of Glorious Memory, to the Service of the *States General*; in which they continued all the last War, (with unquestionable Fidelity) with the other *British* Regiments, who were Commanded to Serve the said *States*.

That the said Regiment, after their Long and Faithful Service, was Broke at *Berganopzoom*, the 1st. of November 1714. And tho' the Officers thereupon made frequent Petitions to the *States*, they could not obtain *Half-pay*, or any Allowance whatsoever.

That the *British* Regiments in *Holland*, being Commanded into that Service by the Crown, for the Common Cause, Continued nevertheless to be Corps of *British* Troops, (Recruiting always in *Britain*, by an Order from the Crown) their Service in *Holland* being as much an act of Obedience to their Prince, as the Service of those Bodies of Troops, who were continued in the Pay of *Great Britain*, at whose Disposal, they have not only ever been, but always lyable to be called over to the Assistance of the Nation.

Therefore, They Humbly desire, that the Premisses may be taken into Consideration, that after their Long and Faithful Services, they may not be the only Unfortunate Officers (Native Subjects of *Great Britain*) left Unprovided for.

THE
CASE
OF THE

Officers of Lieutenant
General: *George Ha-*
milton's Regiment.

19

*The CASE of Bramber-Election, which was
on Thursday the 27th of January, 1714.*

For Edward Minshull, Esq; Petitioner,
AGAINST
Sir Thomas Stiles, Bar. Return'd.

The Candidates were { *Sir Thomas Stiles,*
 { *Sir Richard Gough,* } *Return'd.*
 { *Sir Charles Kemish,*
 { *Edward Minshull, Esq; the Petitioner.*

THE Right of Election is in the Inhabitants of Burgage-Tenements, paying Scot and Lot, the Number whereof is about Thirty Two; but it generally happens, that many of the Tenements, at the time of Election, are inhabited by the Widows of former Tenants, and so have no Inhabitants in them qualify'd for Electors.

The Return is made by the Constable, who is chosen at the Court-Leet thus: The Jury present one, and the former Constable another, and the Steward takes which of the Two he pleaseth.

The Steward is made by the Duke of *Norfolk*, who is Baron of *Bramber*, and Lord of the Mannor.

The Lord *Windsor* (now Lord *Mountjoy*) who, in his Lady's Right, hath nine of those Tenements, sometime before the Court-Leet next before the Election in *May*, 1708. obtain'd the Stewardship from the Duke, and deputed Mr. *Pike* for Steward.

And at that Court-Leet *John Jap* (one of Lord *Windsor's* Tenants) was presented by the former Constable, and taken by *Pike* for Constable.

And at the then Election, the Candidates being Lord *Windsor* and Mr. *Shippen*, against Sir *Cleave More* and Mr. *Hales*, *Jap*, by Lord *Windsor's* Command, made a false Return for him and Mr. *Shippen*, against the other two Candidates: But Sir *Cleave* and Mr. *Hales*, upon a full Hearing at the Bar of the House, were adjudg'd duly elected, and sat in that Parliament.

When the Writs issu'd for the next Parliament, one *French* was Constable, who declaring that he would return whomever was duly elected, *Pike* (by Lord *Windsor's* Command) call'd a Court on purpose to change the Constable; and to secure *Jap* to be again presented Constable, *Pike* put one of Lord *Windsor's* Servants (then come down with him) on the Jury, who presented *Jap*, and *Pike* took him again for Constable.

And thereupon the Precept was immediately deliver'd to *Jap* by the Under-Sheriff, who was there the Day before, and ought to have then deliver'd it to *French* as Constable.

As soon as *Jap* had the Precept, he proclaim'd the Day for Election, and openly declar'd, that he would return whom Lord *Windsor* pleas'd (tho they had but two Votes.)

Whereupon two Gentlemen, then in the Country, who came down to stand Candidates, having notice of this Change of the Constable, declin'd to appear, and so Lord *Windsor* and his Brother were return'd.

And at the last Court-Leet, before this Election now in Contest, *Jap* was presented, and taken Constable by *Pike* again.

And receiving the Precept on Sunday, he (the same Day after Sun-set) proclaim'd the Day of Election for Thursday following.

And taking on him (as he always did) to call whom he pleas'd to the Poll, he call'd and poll'd for Sir *Thomas Stiles* Seven Persons who were no Inhabitants; Three whereof came down and return'd with Lord *Mountjoy* as his Servants or Attendants;

And refus'd the Votes of Four Inhabitants tender'd for Mr. *Minshull*.

By which he made the Poll for Sir *Thomas Stiles* to be Seventeen, and for Mr. *Minshull* Thirteen, and thereupon return'd Sir *Thomas Stiles* with Sir *Richard Gough*.

Whereas Sir *Thomas* had but 10 due Votes,

And Mr. *Minshull* 17.

As will be made appear by the Proofs.

THE
C A S E
O F

Bramber-Election,

F O R

Edward Minshull, Esq; Petitioner,

A G A I N S T

Sir Thomas Stiles, Bar^r Return'd.

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(1)

Some OBSERVATIONS on EXTRACTS taken out of the Report from the Lords Commissioners for Trade and Plantations.

1st Extract. **T**HE Number of *Negroes* yearly Imported into the *English* Plantations and Colonies, since the time of Passing the Act of Parliament by the private Traders, being (as they compute) about 25000.

2. That generally the Prices in the Plantations have been from 14 to *l.* 23 per Head.
3. 'Tis computed that the Number of *Negroes*, necessary for a yearly Supply of the Plantations, is

For <i>Virginia</i> and <i>Maryland</i>	4000
<i>Carolina</i> and <i>New-York</i>	1000
<i>Barbadoes</i>	4000
<i>Leeward-Islands</i>	4000
For the Use of <i>Jamaica</i> , and what are carried by Her Majesty's Subjects to the <i>Spanish West-Indies</i> ,	12000
	25000

Africa
kc

Which Number of 25000, the private Traders reckon have been Imported to those several Colonies.

4. 'Tis alledged by the Company, that the Natives on the Coast enjoy the whole Benefit of the Trade, taking advantage of different Traders to advance the Prices of *Negroes*, and their own Goods, and to depretiate our Merchandizes; and they add in discourse, that the Price of *Negroes* is now about Ten Pounds per Head in *Africa*, whereas formerly it was not above Three.

This the private Traders admit to be true in the manner as is before mention'd.

5. The Company say, they understand the best Establishment to be a Joint Stock, exclusive of all others: But in case that shall not be thought proper, they say they will be content to be limited in their Trade from *Cape-Blanco* to *Cape-Lopez*, if the private Traders be restrain'd from coming there.

To this the private Traders answer, That whatever Confusion may have happened in that Trade, they are to be imputed to the different Interests of the Company and private Traders. Therefore, for prevention of the like for the future, they propose that all Traders to *Africa* be set on an equal Foot, by laying open the Trade, like that to *Turkey*.

To set this in a more true Light, in order to give a right Judgment thereof, 'tis necessary to premise the following Particulars.

1st Partic. To know the Annual Exports of the private Traders, which are, as appears by their own Oaths and Entries in the Custom-house of *London*, *Bristol*, and other Out-Ports of *England* successively, for Six Years last past, viz.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
From 29th September 1701, to 29th September 1702	37	75	18
29th September 1702, to 29th September 1703	44	15	12
29th September 1703, to 29th September 1704	26	527	07
29th September 1704, to 29th September 1705	30	651	07
29th September 1705, to 29th September 1706	32	144	19
29th September 1706, to 29th September 1707	31	986	16

The whole Six Years amounts to *l.* 203302:02:4

Which in an Averidge is 33883 *l.* 13 *s.* 8 *d.* per Annum, their whole Exports from *England*.

2^d Partic. That Fortifications and Settlements on the Coast, and an equal Strength with other *European* Nations, are absolutely necessary to be maintain'd, for Preservation of the *British* Interest, with the Natives.

That for preserving and increasing Trade to the said Settlements, it is also as necessary, that by Policy and Presents, Friendship be kept up betwixt Natives and Natives, and as many of them as possible brought into, and continued in the Interest of the Settlements, without which the Trade to them will be intercepted; and upon occasion of any Quarrel, those Friends must be supported against the Friends of other *Europeans*; and that the only way to have no interruption in Trade, is, to preserve the Balance of Power.

This Occasions sometimes a very great and uncertain Expence of Goods, Ammunition and Arms; and as the Settlements are numerous, and under divers Petty Kings, they are seldom free from Differences amongst one or more of their Neighbours, Friends to other *Europeans*; Also they are illiterate People, and have not (or are they govern'd by) any Religion, Laws or Courts of Justice, or any civiliz'd Rules of Discipline.

The best Foundation and Establishment of the Native's Friendship, Justice, Humanity and Honesty is their dependance on the Protection, Assistance and Benefit from the Forts and Settlements, which ceases when the Trade is supplied by different Interests, and the whole falls in to Confusion and Disorder.

That

That from the first Particular hereof consider'd, with the first, third and fourth Extracts of the Report, it will not be difficult to form this Conclusion.

1. That £. 33883 : 13 : 8 is the Cost of the private Traders annual Exports from *England*, out of which allow £. 4583 : 13 : 8: For some Ships that go for Red-wood and Elephants Teeth, and for others that possibly did make some small Returns in Gold. There will remain £. 29300 : 0 : 0 to purchase *Negroes*, and Provisions for them.

It is in the 4th Extract allow'd by them, the Prices of *Negroes* are advanc'd to Ten Pounds per Head; but because it may be alledged, in some Parts, they are bought at lower Prices; the Calculate is made at Six Pounds per Head, which is less than the Company pay for what they purchase. The Product of *Negroes* then purchased on the Coast for £. 29300 : 0 : 0, is 4883 *Negroes*; Out of which take off the Common Mortality, during the Time of Purchase, and Term of the Voyage, which in this time of open Trade, by delays, is seldom less than 15 per Cent. which is 732 *Negroes*, there will then remain Imported, by the private Traders, into the several Plantations and Colonies no more than 4151, which is 20849 *Negroes* less for each Year than the Computation they have given in to the Lords Commissioners for Trade, and as they fall short in the General Importation, so consequently in their Particular, to the several respective Colonies.

This Importation of theirs, so calculated, does also agree with the several Advices the Company have had from their Agents at *Jamaica*, *Barbadoes*, *Leeward-Islands* and *Virginia*, of the Number of *Negroes* from time to time arriv'd at the said Colonies.

N. B. Their design, no doubt, in this fallacious Computation, was prejudice to the Company and to gain Applause from the Lords Commissioners for Trade.

But how far such Delusions are justifiable, or with what evil Consequences they might be attended when given Credit to, especially in such an essential Part of the Trade of this Nation; is left to every Considerate Person to Judge.

Note, To import 25000 *Negroes*, they must purchase at least 30000, to allow only for Mortality; and suppose also, all their Ships arrive Safe.

Note also, That the 29300 Pounds, their real Exports, 'tis well known, will little more than purchase the Corn, and Necessary Provisions for that Number; and that the Cost of that Number of *Negroes* and Provisions together, would amount to upwards of 180000 pounds Sterling, first Cost of Goods exported from *England*, and bartered on that Coast for *Negroes*, which is their Method of Trading. Had these private Traders Exports amounted to this Sum, the Company would have received for Ten per Cent. 18000 £. Yearly; whereas 'tis Evident for this six Years last past, the Ten per Cent. paid for their whole Exports, for Purchase of *Negroes*, Wood, Teeth and Gold, have amounted to no more than £. 3388 : 7 : 4 : a Year, one with another.

It will be alledg'd, that in the above Computation they included the Imports of Ships fitted out, from the Plantations to *Africa*.

This will help them but little, when the following Particulars are Considered,

1. The Cargoes exported from the Plantations, as by the Returns of their Entries for Six Years last past, amount in an Averidge, one Year with another, only to about £. 3000 Pounds Sterl. per Annum.

2. And that the other Calculate is made, supposing all the Ships and Cargoes from *England* to arrive Safe, and be disposed of on the Coast, and all the Ships to arrive Safe in the Colonies, which is too well known, several do not, but fall into the Hands of the Enemies, and some perish by other Casualties; which may well be computed to amount to much more than the Produce of the Exports from the Plantations.

So that hereby it is evident, their Computation is most Notoriously fallacious in the Degree, as this Calculate explains it.

The Second particular Considered, with the 5th Extract of the Report, will admit of the following Observations.

1. That the private Traders allow, that whatever Confusions have happened in the Trade, they are to be imputed to the different Interest of the Company, and they Trading at one and the same Places.

2. That the Company have proposed their Remedy, by being limited in their Trade; and now particularly, from *Cape Blanco* to *Cape Formosa*.

3. That the private Traders propose a New Scheme of Trade, like that to *Turkey*; which the second Particular in some Measure explains the Difficulties of, and Hazards that attend it; and that there is no Parallel betwixt the Charge of Maintaining and Preserving of Forts and Settlements, Friendship and Trade on the Coast of *Africa*, and that of the fixt and secure Trade in *Turkey*, where they are under a Polite and Safe Government, stated Laws and Courts of Justices, and concerted Articles of Peace with *European* Nations.

As also it is Observable,

1. That it is the Practice of all other Nations, and that they find it impracticable to preserve the Trade and Fortifications under any other Method than Joint-Stocks.

2. That the Company having such a Limited part to themselves, and the rest open, being a much larger Extent than the Company's Proportion, and where are also plenty of *Negroes*, seems the most certain Method to answer all the good Ends and Purposes designed by

by this Trade, for the Honour and Benefit of *Great Britain*, and the Plantations and Colonies, in which each may endeavour to improve their part, and by Purchasing *Negroes* on moderate Terms, afford them so in the Colonies; and hereby the private Traders will be exonerated from that pretended heavy Burthen of Ten per Cent.

3. A Company with a Joint Stock, whose Property the Fortifications and Settlements are, having their Estates in the Magazines, are most likely to preserve them and the Trade, and very uncertain and hazardous to be done by Traders at Pleasure; or by any Duties that shall be laid on such uncertain Trade.

4. It may be Dangerous to the Nation and Plantations, to Try an Experiment which no Nation else do Practice; and which may be attended with fatal Consequences.

5. That a Joint Stock is National in its Constitution, much exceeding that of a few designing Persons, who hope by the specious Pretence of an open Trade to ingross the same.

6. It is an Easy thing to unsettle and destroy a Trade, not without great Labour, Danger and Expence acquired; but it will be difficult to regain it; once lost; especially this of *Guinea*, which all our Neighbouring Nations thirst to gain from us.

An Observation is likewise Necessary upon the second Extract, concerning the pretended Prices they Sell their *Negroes* for in the Plantations, and at the Prices mentioned; it will not be difficult to show the Yearly great Loss to amount to near half their Exports, having regard to the Common Mortality and Hazard, and Charges in Exporting *Negroes*, and Loss by Returns from the Colonies, and Allowance for the time for Reimbursement in *England*. But if that Suggestion be also Fallacious, and that the Prices of *Negroes* be near double that Price in the Plantations; especially in *Barbadoes*, and the *Leeward* Islands, as most Merchants do allow, then the Hardship lies upon the Planters, and is a great Discouragement to the Plantation Trade, and is the Occasion of Sugars coming so dear to *England*, as to Incourage our Neighbours, to import them in greater Quantities from the *East-Indies*, which may in time prove Fatal to all the *British* Sugar Colonies.

Note also, these Private Traders make loud Acclamations of the great Improvements they have made in the Exports of the Woollen and other Manufactures over and above what the Company have done, when they had the Trade intire in themselves.

To confute this, and show it of the same Piece with their foregoing Assertions,

Note, the Private Traders have exported as before recited, £. 33883:13:8: Annually for the Six Years past in an Averidge.

The Company, before the Interlopers and private Traders interrupted them, exported for many years successively in an Averidge, upwards of £. 70000 p. Ann. in Woollen Goods, and other Manufactures and Merchandizes as per an account, that they have drawn out of their Trade of Nine Years together, and then purchased *Negroes* at moderate Rates, and sold them so in the Colonies, and imported large Quantities of Gold and other Goods to *England*, and at that time Paid near double the Price the private Traders now pay for all Woollen Goods they exported; and it will always happen when Goods are not sold for Profit in Foreign Markets, the Price must consequently fall at home.

Wherefore it is humbly hoped the Parliament will give them such Relief as they may be encouraged to Support, and prosecute the Trade to the good of this Nation and the Colonies, and Preservation and Improvement of their Property and Estate; all which have been very much impaired by very great Losses during the late and this present War, and by extraordinary Charges, and the Confusion and Disorder in Trade, occasioned by the Private Traders, and their contending Interests on the Coast of *Africa*.

An Account of the Company's Fortifications and Settlements on the Coast.

Upon the establishing this Company, it was agreed with the preceding Company for the Settlements they had on the Coast upon Surrender of their Charter, to pay them £. 34000. which was accordingly performed. The Settlements they were possess of were *Gambia*-Fort and two Factories, viz. *Serraleon* and *Sherbrow* let out to Lease, *Cape-Coast-Castle* and four Factories on the *Gold-Coast*; since which, the Company have been at the following Charge of rebuilding them, and building many others, viz.

James Fort rebuilt and enlarged on *James-Island*.
Serraleon-Fort Built on *Bence-Island*.
Sherbrow-Fort Built on *Tork-Island*.
Dickies Cove-Fort Built.
Succondee-Fort Built.
Commenda-Fort Built.
Cabo-Corfo-Castle Rebuilt, and much better Fortified.
Fort-Royal bought of the *Danes* for £. 4000.

Queen Ann's Point-Fort Built.
Annisban, a Factory.
Annamaboo-Fort Built.
Agga, a Factory.
Shidoe, a Factory.
Winnebah-Fort Built.
Accra-Fort Built.
Whidah-Fort Built.

The first Cost of Building and Storing of so many Fortifications with Great Guns, Small Arms and Ammunition, and Artificers, Stores and Necessaries, with Interest of the Money since disburs'd, on a moderate Calculate, will amount to several hundred thousand Pounds Sterling.

Note, it is most plain and evident, that the *English* Interest and Trade on the Coast has hitherto been preserved by great Charge, Care and Difficulty; And by the Support of very great Sums of Money, frequently paid in by the Adventurers upon their Stock, and Money lent on Credit by them and other Persons to the Company, and not (as the private Traders most frivolously and unjustly suggest) by the great Advantage of the Ten *per Cent.* on their Exports, the *£. 3388. 7:4: per Ann.* which is but little more than sufficient to pay the Charge and Support of one single Fortification.

And it is hoped, that from these and the like Considerations it appears, that the Private Traders to *Africa* have been, and are a very great Burthen upon the Company, a Molestation to the Government on the Coast, a Prejudice to that of the Trade of the Nation, and to the Plantations and Colonies; and that without some immediate Relief, the whole is in Danger of being totally lost.

The Falacies of Private Traders in *Africa* discover'd, and the Mischief they Occasion demonstrat'd: And an Account of the Settlements on that Coast purchased, built, and now possess'd, by the Company.

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The Case and Memorial of *JOHN KNAPP*, Gent. Relating to his Services about Discovery of Irish Forfeited Estates.

THAT in the Year 1692. when all Commissions of Enquiry into those Estates were over, and that Service taken to be compleated; upon some fresh intimations to the Earl of *Romney*, then Lord Lieutenant of *Ireland*, that there were yet very considerable Discoveries of that kind to be made; Mr. *Knapp* was employed by the said Earl to gain a further Discovery thereof; which (upon the Encouragement by Proclamation of a fourth part to the Discoverer) he undertook; and proceeded therein for about three years, and did actually make and occasion divers great and Valuable Discoveries.

That in the Year 1695. Mr. *Knapp* was employed by the Lord *Capell*, then Lord Deputy of *Ireland*, to lay before the House of Commons of that Kingdom, the Mismanagement of the Forfeitures by the then Commissioners, which Mr. *Knapp* did; and their Commission was thereupon taken from them; which occasioned the Votes hereafter mentioned. They had informed my Lord that there were no more Forfeitures worth the Charge of any Enquiry; whereas after that, there were Discoveries made to the Value of Two or three hundred thousand pounds, wherein Mr. *Knapp* was chiefly Instrumental.

That most of the Discoveries since 1692. have been chiefly effected by the Industry and Application of the said Mr. *Knapp*, at his very great Hazard, and no less Expence of Time and Money; having on that account contracted great Debts, which lye heavy upon him; besides which, most of the more immediate Discoverers have their Expectation from him.

That Mr. *Knapp* has still very considerable Discoveries of this kind to make, which in the Whole will amount to a very considerable Value.

That as Mr. *Knapp* has already been thus useful in this Affair, so he can still do further Valuable Service, if employed therein.

That for his almost Seven Years Service and Sufferings, almost to his Ruin, Mr. *Knapp* has as yet had no kind of Reward or Compensation: All which, in most humble manner, he entirely submits to the Wisdom and Goodness of the Honourable House of Commons.

VOTES made by the Parliament in Ireland, the 13th of December, 1695.

THIS Committee have taken into Consideration the several Accounts and Papers referred to them from this House, relating to the Forfeited Lands, and have examined several Persons on that Subject, and are thereupon come to the following Resolutions:

Resolved, That it is the Opinion of this Committee, That Mr. *William Culliford*, one of the late Commissioners of the Revenue, by divers fraudulent Practices hath converted to his own Use a considerable Part of the Forfeited Estates, contrary to the Duty of his Office, and the Trust reposed in him by his Majesty.

Resolved, That it is the Opinion of this Committee, that the said forfeited Estates may yet by a timely good management, be in great measure retrieved, so as to make the same amount to a very considerable Sum.

Resolved, That it is the Opinion of this Committee, that the Papists who are Equally Guilty of the Rebellion with those that are already Outlawed, and not included in any Articles or Agreements, or not pardoned, be outlawed or attainted by Act of Parliament; and that those who have Appeared or shall Appear upon the Exigents, may be put upon their Tryals; and that a strict inspection be made into all the Accounts and former proceedings relating to the Forfeitures; and that Commissions be again Issued into all the Counties of this Kingdom to Inquire after the Forfeitures.

Resolved, That it is the Opinion of this Committee, that this House do humbly Address his Excellency to lay this whole Matter before his Majesty, and that a reasonable Encouragement (such as his Majesty shall think fit) be given and allowed to the Discoverer of any Forfeited Interest.

To which Resolutions, (the Question being severally Put) the House did Agree.

A Letter from *William Neave*, Esq; who was Chairman of that Committee, to
Sir Francis Brewster in London.

SIR, I wrote to you by the last Post; this comes by Mr. *Knapp*, who you know would have been serviceable to us in the Publick Accounts, could we have you one there; pray therefore do him all the good Offices in your Power. You know how he danced Attendance after us, and what you promised to do for him with my Lord Capel. I am, Sir, Your Humble Servant,
Novemb. 6. --95.

Will: Neave.

**The Case and Memorial of
*John Knapp, Gent.***

Relating to the Forfeitures of *Ireland*.

**Also Verdicts of the House of Commons
in that Kingdom.**

22

A N
A B S T R A C T
O F

Bishop Cozen's Argument;

P R O V I N G,

That *Adultery* works a Dissolution of the Marriage, and that it is Lawful for the Man in such Case to Marry again, during the Life of her that is Divorced.

Which he Argues from

THE 19th of St. *Matthew*, from our Saviour's Words therein express'd, That if the Wife be put away for *Fornication*, the Man is left Free to Marry again, which Freedom is not allow'd to the Adulterers, nor any Man else that shall Marry her.

And he Answers the Objection, That this was not spoke by our Saviour to *Christians*, but to the *Jews*, by Saying, That it was spoke to Christ's Disciples.

And that it was a full Answer to the *Pharisees* Question, That it was not Lawful for a Man to put away his Wife, and Marry again, for any Cause but only in the Cause of *Adultery*.

And that Exception confirms the Rule, as in many other Cases, viz. *Except ye Repent, ye shall all likewise Perish*. Which certainly inters, That if ye do repent, ye shall not Perish. And in 1 Kings the 3d and 18th, *None were in the House, except we Twain*: From whence no Body can infer but Two were in the House.

And that our Saviour did clearly determine, That if a Man, after the Dismissal of a First Wife, Married a Second upon any other Cause except for *Fornication*, it was no less than *Adultery*; thereby Inferring, That upon a just Dismissal for *Fornication* a second Marriage cannot be branded with *Adultery*.

And that the *Pharisees* very Question [*Is it Lawful for a Man to put away his Wife for every Cause?*] was not without a plain Implication of Liberty to Marry another; and therefore our Saviour well-knowing what he meant, gave a full Answer to it.

He answers the Objection, That the *Rhemists* and College of *Doway* urge for the *Papish Doctrine*: *Romans 7. 2. The Woman which hath an Husband is bound by the Law to her Husband as long as he liveth.*

First; That that Place was to be expounded by Christ's Words.

Secondly; That it was to be understood of a Marriage whole and sound, as it stands by God's Ordinance, and not where a Divorce was.

Thirdly; From 1 *Corinthians 7. 10. Let not the Woman depart, as if it were in her Choice whether she would depart or not; whereas, by Fornication, she has departed from him, or rather ought to be put away, whether she would or no.*

Fourthly; It was of a Woman that was under her Husband, and not of one that was divorced from him.

That a Conjugal Promise is the Bond of Marriage, That each of them shall live together, according to God's Holy Ordinance, during their Lives. Separation from Bed and Board doth plainly break that Part of the Bond whereby they are ty'd to Live together.

And the Distinction betwixt *Bed*, and *Board*, and the *Bond* is new, and was never mentioned in the Scripture, and unknown to the Antient Church, devised only by the *Canonists* and *School-men* in the *Latin Church*, (for the *Greek Church* knew it not) to serve the *Pope's* turn the better, till he got it established in the Council of *Trent*, at which Time, and never before, he laid his Anathema upon all them that were of another Mind, forbidding all Men to Marry, and not to make any use of Christ's Concession.

The Co-habitation is the Essence and Substance of Matrimony; and that the Distinction between *Bed*, and *Board*, and the Bond of Matrimony, was purely Chimerical and Fancy, as attested by *Erasmus* and *Bishop Hall*.

And that nothing in the Conjugal Promise extends to Tolerating *Adultery*.

That a Divorce is to break or cut off the Marriage; and that the Antient Canons, Councils, and Fathers of the Church did agree therewith.

And Quotes

Council. Neocæsar. and Alib. Forbidding the Retaining an Adulterous Wife.

Council. Eliber. Aurehan. and Arelateus give Liberty in such Case to Marry again.

Clements Constitution, Tertullian, St. Basil in his Canons, approved by a General Council, are for Marrying again.

Council. Venet. Council Wormat. and Council Lateran.

Laëtantius, St. Jerome, Epiphanius, Chrysostom, Theophilact. The Eastern Bishops in the Council of *Florence, Justin, Martyr, St. Ambrose.*

All the *Greek Church* to this Day allow it.

Erasmus, Cajetan, and other Papists, the Civil-Law, and the Laws of the Emperor are clear for it.

And the Constitution of the Church of England, in the Time of *Henry VIII. Edward VI. and Queen Elizabeth.*

Gratian says, In the Cause of *Adultery*, Lawful Marriage ought not to be denied.

Jellarmine owns, That the Bond of Marriage of Infidels is Dissolvable.

Justinian, a Jesuit, confesses, That it is simply Lawful for the Innocent Party to Marry again.

That the Canon against Marrying again is contrary to Two Acts of Parliament, made 25 *Henry VIII.* and 3 and 4 *Edward VI.* wherein no Canons be allowed that be any way repugnant to the Laws of God, or the Scriptures, the King's Prerogative, and the Statutes of this Land.

He Quotes the Opinion of

Lancelot, Just. Jur. Can.

Selden, Dr. Hammond, Anafius, Dr. Tayleur, Bishop Hall, Dr. Ffulk; are for Second Marriages.

*Mat. 19. 6.
Mat. 5. 32.
permissib.*


A N
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Bishop Cozen's Argument,

P R O V I N G,

That *Adultery* works a Dissolu-
tion of the Marriage, and that
the Innocent Party may Mar-
ry again.

REASONS Humbly offer'd to the Honourable House of
against a 10 l. Ticket Lottery; and for their directing
intended Lottery by disposing of 700,000 Tickets at 4
which makes the voted Sum of 1,400,000 l. to be raised on
105,000 l. per Annum, for Twenty-eight Years only, which
and half per Cent. and will pay off the Principal and Interest
that time.

I.  F that a Lottery should be Methodized to pay
then every Blank Ticket of consequence must carry a
which Interest cannot reach above four and a half
per Annum, until paid off.

II. By such a Lottery, there must be an Addition made of about
to put into Prizes, which the Government pays over and above
Advanced to them; which is so much Money clearly given away
be saved by the Method underneath.

III. The Duty's on Soap, Starch, Paper, and Callicoes, whereof
are gone of the Thirty two it was formerly Charged with a Tax
the half Duty being anew Charged for 32 Years, will make an In
Charge of Officers, for 3 Years longer than need to be, if the
tioned Method be taken.

IV That the Sale of a 10 l. Blank which carries but $4\frac{1}{2}$ per Cent will
3 l. Loss in each Ticket; and have only one Chance thereby for a B
by the underneath Method you have the same for 40 s. and far gr
more Prizes too; one having the whole 1,400,000 l. made into B
the other only a Surplus put into Prizes, which the Government g
and is so much Loss to them.


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REASONS Humbly offer'd to the Honourable House of Commons against a 10 l. Ticket Lottery; and for their directing the present intended Lottery by disposing of 700,000 Tickets at 40 s. each; which makes the voted Sum of 1,400,000 l. to be raised on a Fund of 105,000 l. per Annum, for Twenty-eight Years only, which is Seven and half per Cent. and will pay off the Principal and Interest within that time.


I.  F that a Lottery should be Methodized to pay 10 l. a Ticket, then every Blank Ticket of consequence must carry an Interest; which Interest cannot reach above four and a half per Cent. per Annum, until paid off.

II. By such a Lottery, there must be an Addition made of about 400,000 l. to put into Prizes, which the Government pays over and above what is Advanced to them; which is so much Money clearly given away, and may be saved by the Method underneath.

III. The Duty's on Soap, Starch, Paper, and Callicoes, whereof three Years are gone of the Thirty two it was formerly Charged with a Tax; and now the half Duty being anew Charged for 32 Years, will make an Increase and Charge of Officers, for 3 Years longer than need to be, if the under mentioned Method be taken.

IV That the Sale of a 10 l. Blank which carries but $4\frac{1}{2}$ per Cent will be at least 3 l. Loss in each Ticket; and have only one Chance thereby for a Benefit, and by the underneath Method you have the same for 40 s. and far greater, and more Prizes too; one having the whole 1,400,000 l. made into Benefits, and the other only a Surplus put into Prizes, which the Government gives away, and is so much Loss to them.

REASONS for Raising the 1,400,000 l. designed Lottery by 40 s. Tickets; which will plainly appear to be for the Interest of both the Government and Adventurer, and a Loss onely to the Stock-jobbers.

I.  HE Government by such a Lottery pays no more than the first Advanced Money of 1,400,000 l. allowing only six per Cent. until it comes in Course to be paid off; and will be saved thereby about 400,000 l. which they must otherwise give away in a 10 l. Ticket Lottery, to be put into Prizes; which swells the Account so much, that it makes so small an Interest as $4\frac{1}{2}$ per Cent. and gives a fair Opportunity to the Stock-Jobbers to prey upon the Unfortunate.

II. As the Loss is less in having a Chance by 40 s. Tickets; so likewise, those that are Fortunate, will have a much better Interest for their Money of six per Cent. and by the other but $4\frac{1}{2}$ per Cent.

III. The whole Advanced Money being all of it put into Prizes, reduces the odds of three and a half Blanks to one Prize, and the other cannot be less than about six Blanks to one Prize; and not near so many Large ones; as may appear by the Schemes I have delivered in at the Door of this Honourable House this Sessions.

IV. That the Government can meet with no great Disappointment by 40 s. Tickets, for having 14 Lotteries of 100,000 l. each, if it should want 1, or 2 of them to be Sold, yet the Lottery in General goes on, and the Adventurers Interest and Risque is still the same.

V. If Four and half per Cent. Interest only for the Adventurers that Advance the Money, with the great Odds of six Blanks to one Prize, should discourage Persons bringing in their Money (which in all probability it will) the Disappointment to the Government, not having the Money brought in, will be very great.

VI. In Consideration of the Government saving near 400,000 l. as likewise the Nation not being Mortgaged so long as Voted, by above 4 Years time, and the Inconvenience of keeping Officers that whole time for a third part of

Calculation upon Rebate of Interest, how soon 7 l. 10 s. per Cent. for 100 l. advanced will pay off the Principal, with an Allowance of 6 per Cent. Interest till the whole is paid off.

	l.	s.	d.
M oney advanced	100.000		
1st years Interest	6.000		
Total	106.000		
1st years Fund pays	7.500		
Remains	98.500		
2d years Interest thereof	5.910		
Total	104.410		
2d years Fund pays	7.500		
Remains	96.910		
3d years Interest	5.814	12	
Total	102.724	12	
3d years Fund pays	7.500		
Remains	95.224	12	
4th years Interest	5.713	9	7
Total	100.938	1	7
4th years Fund pays	7.500		
Remains	93.438	1	7
5th years Interest	5.606	5	8
Total	99.044	7	3
5th years Fund pays	7.500		
Remains	91.544	7	3
6th years Interest	5.492	13	3
Total	97.037	6	
6th years Fund pays	7.500		
Remains	89.537	6	
7th years Interest	5.372	4	5
Total	94.909	4	11
7th years Fund pays	7.500		
Remains	87.409	4	11
8th years Interest	5.244	11	1
Total	92.653	16	
8th years Fund pays	7.500		
Remains	85.153	16	
9th years Interest	5.109	11	1
Total	90.262	16	11
9th years Fund pays	7.500		
Remains	82.762	16	11
10th years Interest	4.965	15	5
Total	87.728	12	4
10th years Fund pays	7.500		
Remains	80.228	12	4
11th years Interest	4.813	14	4
Total	85.042	6	8
11th years Fund pays	7.500		
Remains	77.542	6	8
12 years Interest	4.652	10	9
Total	82.194	17	6
12th years Fund pays	7.500		
Remains	74.694	17	6
13th years Interest	4.481	13	10
Total	79.176	11	4
13th years Fund pays	7.500		
Remains	71.676	11	4
14th years Interest	4.300	11	10
Total	75.977	3	3
14th years Fund pays	7.500		
Remains	68.477	3	3
15th years Interest	4.108	12	7
Total	72.585	15	10
15th years Fund pays	7.500		
Remains	65.085	15	10
16th years Interest	3.905	2	11
Total	68.990	18	9
16th years Fund pays	7.500		
Remains	61.490	18	9
17th years Interest	3.689	9	2
Total	65.180	7	11
17th years Fund pays	7.500		
Remains	57.680	7	11
18th years Interest	3.460	16	5
Total	61.141	4	5
18th years Fund pays	7.500		
Remains	53.641	4	5
19th years Interest	3.218	9	5
Total	56.859	13	10
19th years Fund pays	7.500		
Remains	49.359	13	10
20th years Interest	2.961	11	7
Total	52.321	5	6
20th years Fund pays	7.500		
Remains	44.821	5	6
21st years Interest	2.689	5	6
Total	46.510	11	00
21st years Fund pays	7.500		
Remains	39.010	11	00
22d years Interest	2.340	12	8
Total	41.351	3	8
22d years Fund pays	7.500		
Remains	33.851	3	8
22d years Interest	2.031	1	5

TICKETS, for having 14 Lotteries of 100,000^{l.} each, if it should want 1, or 2 of them to be Sold, yet the Lottery in General goes on, and the Adventurers Interest and Risque is still the same.

V. If Four and half *per Cent.* Interest only for the Adventurers that Advance the Money, with the great Odds of six Blanks to one Prize, should discourage Persons bringing in their Money (which in all probability it will) the Disappointment to the Government, not having the Money brought in, will be very great.

VI. In Consideration of the Government saving near 400,000^{l.} as likewise the Nation not being Mortgaged so long as Voted, by above 4 Years time, and the Inconvenience of keeping Officers that whole time for a third part of the Duties, with the Advantage of the Adventurers having a Chance of raising themselves and Families with less Money, with much less Odds of Blanks to Prizes, and with a far greater Number of the larger Denomination of Benefits; it is humbly Submitted to the great Wisdom of this *Honourable House*, whether this proposed Scheme be not the most Advantageous to the Publick?

N.B. By the Calculation on the side hereof it plainly appears that 28 Years time, does over-pay the Principal and Interest of the 1,400,000^{l.} raised by this Method on the Fund of 105,000^{l.} *per Annum.*

Note, Further the Proposer hereof intreats as a Favour, and a Reward for his Services and Charges, that himself and Friends may have one of the said 14 Lotteries entire, to Sell and Dispose of as they shall think fit, upon Payment of their Money for the same within the limited Time, as other Persons are to pay for theirs.

19th years Interest	—	2.218	9	5½
Total	56.859	13	10½	
19th years Fund pays	—	7.500		
Remains	49.359	13	10½	
20th years Interest	—	2.961	11	7½
Total	52.321	5	6	
20th years Fund pays	—	7.500		
Remains	44.821	5	6	
21st years Interest	—	2.689	5	6½
Total	46.510	11	00½	
21st years Fund pays	—	7.500		
Remains	39.010	11	00½	
22d years Interest	—	2.340	12	8
Total	41.351	3	8½	
22d years Fund pays	—	7.500		
Remains	33.851	3	8½	
23d years Interest	—	2.031	1	5½
Total	35.882	5	1½	
23d years Fund pays	—	7.500		
Remains	28.382	5	1½	
24th years Interest	—	1.702	18	8½
Total	30.085	3	10	
24th years Fund pays	—	7.500		
Remains	22.585	3	10	
25th years Interest	—	1.354	2	2½
Total	23.940	6	0½	
25th Years Fund pays	—	7.500		
Remains	16.440	6	0½	
26th years Interest	—	986	8	4½
Total	17.426	14	5	
26th years Fund pays	—	7.500		
Remains	9.926	14	5	
27th years Interest	—	595	12	0½
Total	10.522	6	5½	
27th years Fund pays	—	7.500		
Remains	3.022	6	5½	
28th years Interest	—	181	6	9½
Total	3.203	13	3	
28th years Fund being } 7.500 ^{l.} does then over-pay the whole	4.296 6 9			
Total yearly Fund	7.500			

REASONS

FOR

Raising the 1400,000*l.* by
a Lottery of 40*s.* a Ticket;
and not by a 10*l.* Ticket
Lottery.

On a Setled Fund of 105,000*l.*
per Annum for 28 Years only.

Whereby near 400,000*l.* will be
saved to the Government; and
the Nation Mortgaged for a-
bove four Years less, in point of
time.

Humbly Submitted to the Con-
sideration of the Parliament of
Great Britain,

By RICHARD CARTER.

Whereas an Act passed in the Tenth Year of Her Majesty's Reign, intituled, An Act for Regulating, Improving and Encouraging the Woollen Manufacture of Mixt or Medly Broad Cloth, and for the better Payment of the Poor Employed therein, hath proved ineffectual to prevent the Abuses committed in Making and Measuring the same, to the Disreputation of the said Manufacture Abroad, and the great Discouragement of the good Makers and fair Dealers therein:

BE it Enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the Authority of the same: That from and after the Tenth Day of *August*, in the Year of our Lord 1714, all Mixt or Medly Broad Cloth shall, at the instance and request of any Buyer, for Proof thereof, be put into Water, as by an ancient Custom they usually were, and then Measured by any two indifferent Persons to be appointed and Chosen, One by the Buyer and another by the Seller of the said Cloth; and in Case they shall disagree in Ascertainning the said Length and Breadth of the same, then the said Admeasurement to be made by the sworn Measurer of the City of *London*, or his sufficient Deputy or Deputies to be sworn in like manner as the said City Measurer is, which said City Measurer shall have and receive 4 *d.* and no more for each Piece of Cloth which shall be by him or his Deputy or Deputies so measured, to be pay'd by the Buyer of the said Cloth; and in Case upon every such Proof by the Person or Persons so appointed and chosen as aforesaid, there shall be found a Lesser or Smaller Content in Length, than is contained and specified in every the Seal or Seals of the Mill-man respectively, then every the Clothier, Owner or Seller of such Cloths, shall be answerable for the said Millman's making such default, and shall forfeit and pay One Shilling *per* Yard, according to the full Contents thereof, one Moiety whereof shall be paid or allowed by the said Clothier or his Agent, to go to the Use and Behoof of *Christ's Hospital* in *London*, and the other Moiety to the Poor of the City, Town or Place where the said Cloth or Cloths was or were actually made, which Monies so forfeited shall be deducted by the Buyer out of the Piece of Cloth so adjudged to be wanting in due Measure, upon a Certificate and Oath made by any two of the said Persons before a Justice of the Peace, near adjoining to the Place of Sale, and shall be paid and applyed as aforesaid; which Oath such Justice of Peace is hereby authorized and required to Administer, and thereof to give the said Persons a Certificate without Fee or Reward; and the Sums of Money which the Owners of any Cloth shall forfeit and pay for Default of the said Mill-man, such Mill-man shall repay to the same Owner upon Demand.

Objection. The Place of this Proof by Water must be at the Election of the Buyer or Seller; if it be of the Seller, it will be inconvenient for the Buyer, and if of the Buyer it will be inconvenient for the Seller; because the Measurer chosen by the one must attend the other wherever the Proof shall be: A certain Place would prevent this Inconvenience, and Blackwell-Hall in London (for Cloth sold there) would be most convenient, and especially for that by the Bill, if any Cloth sold in London be new wetted, it must be brought in wet from the Place of wetting to Blackwell-Hall, to be there Measured on a Table, if any Dispute be about the Measure. And the Governors of Christ's Hospital have offered and are willing to Erect and keep in Repair Convenient Cesterns or watering Troughs for that purpose, and to bring a sufficient

Supply of Water there, if not enough already. This Bill extends to all Counties, except York, though as framed the Observation of it is Impracticable in the Country; there are great Quantities of this Cloth sold at Bristol and other Fairs, and sent Weekly by the Clothiers into all Parts of the Kingdom; a new Proof by Water was never practised but in London, and if a Buyer in the Country require it, it cannot be done without a Table and Cistern, which this Bill hath made no Provision for. But suppose there should be such a Table, and two Persons are Chosen to Measure it, and they disagree in the Measure, there is no third Person (in Case of Sales in the Country) to adjust it, and for want of such third Person, no Forfeiture for want of Measure will incur. The Words are that [the Clothier or his Agent] shall forfeit One Shilling per Yard, where one alone or each of them forfeits; if each, then 'tis unreasonable, for the Factor forfeits, though innocent, and if but one of them forfeits, 'tis uncertain which. One Moiety of all Forfeitures to go Christ's Hospital; what if the Sale be at Bristol, Exeter, &c. and the Cloth proved by Water there, and found short, the Buyer will deduct it out of the Piece of Cloth, but few or no Buyers will ever return it to Christ's Hospital. It was never (as to Convictions in the Country) intended that Christ's Hospital should have any part of the Forfeitures. But suppose the Conviction be in the City, the Buyer is impower'd to deduct the Forfeiture out of the Price of the Cloth, but left at Liberty whether he will remit it to the Uses intended. If 'tis intended that this Bill shall not extend any farther than the City of London and Suburbs thereof, the Words in this Clause should be *At the instance and request of any Buyer within the City of London and Suburbs thereof, and not to have said of any Buyer, which comprehends all Buyers in the Country, which is inconsistent with all the following Clauses of the Bill.*

And be it further Enacted and declared by the Authority aforesaid, That nothing herein contained shall extend or be Construed in any wise to hinder and discourage the said Mill-man in the Country from the setting of a Seal of Lead with his Name thereon to the said Cloths, after the same be fully milled and proved by Water, according to the Act passed in the Tenth Year of Her Majesty's Reign abovementioned, on which Seal of Lead shall be contained the true and just Length and Breadth of every of the said Cloths; and if the Buyer, at the time and Place of Sale, shall be contented and satisfied to accept the said Cloths, according to the Measure so ascertained and struck on the said Seal affixed thereunto by the said Mill-man as aforesaid, then the same shall be and is hereby declared to be the Rule of Payment to the said Buyer, except only that he shall be allowed to pay for only one Quarter of a Yard less by the Piece of Cloth sold, than the Water-length specified and contained on the Seal of the Millman, and no more.

But in case any Dispute shall there and thenceforth arise between the Buyer and the Seller of the said Mixt or Meely Broad Cloth, at the Place and Time of Sale thereof, the Measure finally to be ascertained shall be taken (if in London) on a Table at Blackwell-Hall, in Length equal and alike to the Table on which the Mill-man or Mill-men in the Country is and are obliged to Measure the said Cloth, according to the said recited Act of the Tenth Year of Her Majesty's Reign.

Object. There is nothing before in this Act that hinders or discourageth the Mill-man, therefore these Words are useless and incoherent. The Seal is to contain the Length and Breadth as it shall be duly found by the Mill-man, and the Water Measure at the Mill was, in the Time of Richard the Third and ever since, (as appears by many Acts of Parliament) the Rule as to the Contents of the Cloth in Length and Breadth; but by this Bill, by the Words [If the Buyer shall be content and satisfied to accept,] 'tis left to the will of the Buyer, whether it shall be the Rule or not, which will make the Water Measure of little or no Use; and to give a Quarter of a Yard to the Buyer, within the true Water Measure for nothing, as this Clause doth, is very unreasonable, it was never heretofore allowed or insisted upon. The Millman, by the Act of the 10 Regiæ, is sworn, and forfeits 20 s. per. Cloth, if he do not duly Measure and Seal

Seal the Cloth, to be recovered at any Time within Thirty Days after the Offence is committed or discovered, by Distress and Sale of Goods by Warrant of a Justice of Peace, and for want of a Distress to be Committed to the House of Correction; and it appearing before the Committee on this Bill, that a few Cloths sold in London were short of the Content of the Seal, which for ought the Clothiers know was fraudulently contracted by the Buyer or his Agent to procure their Ends; however the Clothier to prevent future Abuses therein, was contented to be Subjected also to the Penalty of one Shilling for each Yard of the whole Cloth under Measure, to be deducted by the Buyer, out of the Price of the Cloth, and the Buyer may wet the Cloth again for Proof, and is to have Allowance for short Measure, which is a sufficient Security that the Buyer cannot suffer by that Measure. Therefore, considering this, and that the Draper buy the Cloth according to the Measure at the Mill, and that after the Measure at the Mill the Cloth is worked up fit for Sale, and in that Working the length of it will be encreased one Yard in Twenty, and the Mill-Man to avoid Forfeitures must allow half a Yard at least beyond the just Measure, of which the Draper will have the benefit, which will make a Yard and half upon Twenty, so that after such an ample allowance for Patterns and Remnants, when no Retailers in this Kingdom of any Commodity can pretend to have the least Allowance for or upon any Act whatsoever, there can be no Reason given why the Buyers of Cloth should have a Quarter within the true Water measure.

It may be Objected, that the Buyer cannot know certainly whether the Measure at the Mill is just or not, unless the Cloth be Wetted a-new, and that if it be new Wetted it will then be of the same length and breadth as it was when the Mill-man measured. The Answer is, that if the Measure at the Mill be just, as for time to come it will be, to escape the several Forfeitures and Penalties of this Act, if prov'd to the contrary, then little or no Cloth will be Wet over again, but if it be new Wetted it must be new Dress'd, and it will by Dressing get a Yard again upon Twenty. And if the Drapers give any part of their Cloth away in Patterns, 'tis their own voluntary Act, and no doubt but they consider it in the Price of their Cloth, as all Retailers do.

Provided also, and it is hereby declared, That nothing shall be deemed a Default or Conviction of or in the Seller of the said Cloths within the true meaning of this Act, so as to subject him to any Pains, Penalties or Forfeitures whatsoever, unless more than a Quarter of a Yard of Cloth in Length thereof be found and adjudged to be wanting of the Water-Measure ascertained by the Millman, and the true and ratable Value only of a Quarter of a Yard or less as may happen to be wanting in Measure, shall be allowed to the Buyer of the said Cloth, and no more.

Object. This Clause determineth who shall Forfeit, which is the Seller for the Millman or Clothiers Offence.

And be it further Enacted by the Authority aforesaid, that no Factor or Seller of Cloth shall allow to the Buyer any more than the Quarter of a Yard within the Water Measure upon any Pretence whatsoever, under the forfeiture of one Shilling per Yard for every Cloth that the Factor shall exceed the said quarter of a Yard.

Object. This Clause can be of no use, because there is no Direction how to levy or dispose of the Forfeiture, or by whom determined. If 'tis meant to be deducted out of the Price of the Cloth by the Buyer, as the first Clause of the Bill directs, it is very unusual and odd, for the Buyer will not complain if the Seller give him half of every Cloth he buys, and it seemeth incongruous that the Clothier should pay the Seller's Forfeitures, when this Clause was intended to restrain the Factor from giving away for nothing too much of the Clothiers Property.

Provided nevertheless, That if the greatest part of any of the said Cloths which for Proof shall be again tryed by the Water, fall short more than one Nail in the Breadth of the said Cloth stamped and contained on the Seal of the Mill-man, the Seller or the Owner thereof shall and is hereby subjected and made liable to the like Forfeiture of One Shilling per Yard, according

according to the full Contents of the said Cloth, in like manner as if the Cloth had wanted more than one quarter of a Yard in the Length thereof, to be paid and recovered to the Uses before-mentioned.

Object. By Straining a Cloth in the Length, as the Buyer hath opportunity privately to do, the Breadth may be contracted Two or Three Nails within the Natural and true Water Measure, therefore it is highly necessary that the Seller should have liberty to wet the Cloth a-new at Blackwell Hall (where the Cloth is to be Measured Wet,) if the Seller suspect any Fraud hath been committed by the Buyer, or his Agent. Whether the Clothier, or Seller, or both Forfeit 'tis left in this Clause uncertain; if 'tis meant the Seller that is innocent, 'tis very unreasonable.

And to prevent all undue Convictions by Surprise or otherwise, be it further Enacted by the Authority aforesaid, That the Buyer of the said Mixed or medly Broad Cloths, by himself, his Agent, or Servant, within six Days after such Sale, shall give Notice to the Seller, or his Factor, of the time when the said Cloth or Cloths is and are to be for Proof thereof again wetted, and tryed by the Water; and in case the Seller or his Factor doth not appoint an indifferent Person as aforesaid, or doth refuse or neglect to attend the said Proof thereof, which shall be made some time within the space of Ten Days after Sale, then the Buyer or his Agent may proceed by Default and in the Absence of the said Seller or his Agent to prove the said Cloth by the Water, and the said City sworn Measurer or his sufficient Deputy or Deputies on Request made, shall proceed to take the Measure thereof on the Table as aforesaid, and finally to adjudge and ascertain the true Measure and Contents of the same, and thereof a Certificate and Oath as aforesaid to make, which is as well to be and remain the Rule of Payment to the Buyer, or an Award of Conviction or Forfeiture, any thing in this Act contained to the contrary hereof in any wise notwithstanding.

Object. This doth not determine how long before the said Proof the Seller, &c. should have Notice. A reasonable time ought to be set, for the Seller may not have an Opportunity to Attend, or send any body to Attend on an Hour or less Notice, especially if it be in the Buyer's Election where to Wet. If it be at the Cloth-Worker's House, the Buyer and his Agent may, before Notice given to the Seller, by indirect ways contract the Breadth and Length as they please, and unjustly bring the Penalty and Forfeitures upon the Clothier and Mill-Man. Besides, no Factor for three times the Sallery now he hath will send his Servant to attend the Cloth-workers Houses, who generally live in the Extreame parts of the City, and from thence to the Measuring Table at Blackwell-Hall; or for ten times the Sallery be obliged to undertake the Fatigue himself. And then the sworn Measurer of the City and the Buyer proceed in their old way of Cheating the Clothiers, by which so many Clothiers of good Stocks and Estate have been ruin'd, to the great detriment of the Poor.

And be it further Enacted and declared by the Authority aforesaid, That all and every Mixt or Medly Broad-Cloth, which shall be exposed to Sale in England, (other than Cloth made before the Commencement of this Act,) shall be stamped with the Water-Measure thereof on the Seal of the Mill-Man, by whom the said Cloth was Wetted, Fulled, and Milled; and every Clothier or Person selling or putting to Sale any of the said Broad-Cloths before such time as all and every the same Cloths shall be Sealed and Stamped with the Seal of the Mill-man in the Country as aforesaid, on which Seal shall be specified the Name of the said Mill-man, together with the Contents of the said Cloth in Length and Breadth, and marked with the distinguishing Mark of a Crown, shall Forfeit and Pay the like Sum of One Shilling per Yard, according to the true Contents of the said Cloths by the Piece, to be paid and disposed of as aforesaid, and to no other Use or Intent whatsoever.

Object.

Object. As almost half the Cloth that is made in England is sold in the Country Fairs, and weekly sent to all Parts; How shall the Mony of the Forfeiture be remitted to the Hospital, or the other Moiety to the Place where the Cloth is made? 'tis not in this Act any where directed, or in this Clause said how to be recovered, or by whom determined.

Provided always, and be it further Enacted by the Authority aforesaid, That all and every Mixed or Medly Broad-Cloths made or to be made before the Commencement of this present Act may, for Proof thereof, be again Wetted and tryed by Water at the Request of the Buyer as aforesaid. And if the same shall be found, on the Proof thereof, by any two indifferent Persons to be chosen, one by the Buyer and another by the Seller, or by the said City sworn Measurer, or his sufficient Deputy or Deputies as aforesaid, to contain a less or smaller content in Length or Breadth thereof than is contained or specified in every the Seal or Seals of the Mill-man or Mill-men in the Country respectively, then the said Buyer or his Agent shall be obliged to accept of the said Cloths, and pay no more than for the true Contents thereof ascertained and settled by the said Admeasurement as aforesaid, and the Seller shall not be subject to any Penalty for such short Measure.

And be it Enacted by the Authority aforesaid, That if any Admeasurement of the City Measurer or his Deputy, pursuant to this Act, shall not be duly and truly made on such Table at *Blackwell-Hall* by Water Measure, then the said City Measurer, for every Default therein, shall forfeit and pay one Shilling *per* Yard of the whole Cloth, whereof such due Admeasurement shall not be made.

Object. There is not as to levelling any Directions before, only that the Forfeiture for short Measure shall be deducted by the Buyer out of the Price of the Cloth; surely it was never intended, nor is it reasonable that the Clothiers should pay for the Default of the City Measurer that hath or doth cheat him in the said Measure, and therefore this Clause can be of no use to the Clothier, (as intended to be,) unless it be directed by whom to be determined, how to be levell'd upon the City-Measurer, and how to be dispos'd of.

And be it Enacted by the Authority aforesaid, That in the Day time, not before Eight of the Clock in the Morning, nor after Seven of the Clock in the Afternoon, it shall be lawful for any Person or Persons to go to any Rack where any Mixt or Medly Broad-Cloth is, and there view and measure the same; and if it appears that the same Cloth is stretched or strained against the Tenour of or not sealed according to the said recited Act, the Person or Persons on whose Rack the same Cloth shall be found, shall for every such Offence forfeit and pay for each Yard of the same Cloth the Sum of one Shilling.

Object. This Clause will not answer the Designs of it, because in the Summer time a Cloth may be put in the Rack, dryed and carryed away before eight in the Morning; and to make it effectual, the time of Search should be after the rising and before the setting of the Sun; besides, as before observed, the Mill-Man for fear of Penalty will content the Cloth shorter than justly and truly it is; so that all Cloth will appear to be strained more than really it is, because all Cloth will gain one Yard upon twenty in working, as before truly asserted: And consequently if the Clothier was prohibited from exceeding that quantity, as it is supposed it was intended, the Owner of the Rack would be inevitably subject to the Penalty of one Shilling per Yard. But as the Clothier is not by this Act restrained from Retching, the measuring of the Cloth in the Rack can be to no purpose. And this Clause directs not to whom the Forfeiture shall be disposed, and how levelled, or by whom determined. If it is meant to be recovered and applyed as aforesaid, that cannot be, for there is no Recovery before mentioned, but only in Case of short Measure; and in that Case the Buyer may deduct the Forfeiture out of the Price of the Cloth, but the Conviction for an Offence against this Clause cannot be made but before the Cloth is exposed to Sale. for the Cloth is racked before quite dressed and finished, and therefore no Deduction can be made by the Buyer out of the Price of the Cloth, when 'tis unknown who the Buyer will be.

And be it further Enacted by the Authority aforesaid, That from and after the said tenth Day of *August* 1714, every Clothier, Cloth-worker, Cord-maker, or any other Person concerned in the Trade of the Woollen Manufacture, shall make Payment in Money to all and every Person and Persons any ways employed or concerned in the said Woollen Manufacture for all Work to be done in Relation thereto, and shall not in lieu of Payment impose or deliver to them any sort of Goods or Wares for such Work; and in case any Person or Persons shall in lieu of Payment so impose on or deliver to any Workmen or poor Labourers any Goods or Wares for or instead of Money, every Person or Persons so offending therein shall for every such Offence forfeit and pay the Sum of five Pound, one Moiety thereof to the Informer, and the other Moiety to the Poor of the Town or Place where any such Offence shall be committed. Provided always that all Offences committed against this Act shall be prosecuted within forty Days after the Offences are committed or discovered.

Object. This Clause will be ineffectual, because no Clothier or Person concerned in the Woollen Manufacture, or at least very few of them, impose or deliver any Goods or Wares in lieu or instead of Money, but they sell upon Trust to the Poor before their Work is done at an extravagant rate, to the great Oppression of the poor Labourers, and no Remedy to prevent it, but a Clause to prohibit the Clothier or any other Person concerned in the Woollen Manufacture from selling any Goods or Wares whatsoever, but the Product of their own Lands. This Clause likewise runneth with the Imperfection of the whole Bill, in not directing by whom the Offences shall be determined, or how levelled.

And be it further Enacted by the Authority aforesaid, That if any Action or Suit shall hereafter be commenced or prosecuted against any Person or Persons by this Act authorized to put the same in Execution, all and every Person or Persons so sued may plead the general Issue, and give this Act and the special Matter in Evidence; and if the Plaintiff shall become Nonsuited, or forbear farther Prosecution, or suffer Discontinuance or a Verdict to pass against him or Judgment upon Demurrer, the Defendant or Defendants shall recover his or their treble Costs, for which he and they shall have like Remedy as in Cases wherein Costs by Law are given to Defendants. And this Act shall be taken and allowed a Publick Act in all Courts within this Kingdom, and all Judges and Justices are hereby required to take Notice thereof as such without special pleading for the same.

Provided always That this Act, or any thing herein contained, shall not be construed to extend to any Cloth made or manufactured within the County of *York*, or to repeal or any wise to invalidate any of the Authorities mentioned or contained in an Act made in the Seventh Year of her present Majesty's Reign, Entituled, *An Act for the better ascertaining the Length and Breadth of Woollen Cloth made in the County of York*, except what is herein after contained relating to the fixing or causing to be fixed any false Mark to the Cloth or Stuff distinguishing the Maker thereof.

And be it further Enacted by the Authority aforesaid, That if any Maker of any Cloth or Stuff, or other Person concerned in the said Manufacture, shall at any time after the said tenth Day of *August*, which shall be in the Year of Lord 1714, fix or cause to be fixed any Mark to his Cloth or Stuff, whereby to distinguish the Maker thereof, other than his Christian and Surname, and the Place of his Residence, and shall be prosecuted for the said Offence within thirty Days next after the Offence committed or discovered, and shall be thereof convicted by the Oath of one or more credible Witness or Witnesses before any Justice or Justices of the Peace of the County, Riding or Corporation wherein any such Offence shall be committed or Offender taken (provided such Justice or Justices be not concerned in the Matter of the said Complaint) which Oath the said Justice or Justices respectively are hereby impowered to administer, such Maker of Cloth or Stuff being thereof convicted as aforesaid, shall for every such Offence forfeit the Sum of Ten Pounds, to be levy'd by Warrant under the Hand and Seal of the Justice or Justices

Justices of the Peace before whom such Conviction shall be made, by Distress and Sale of the Offenders Goods, to be paid one Moiety thereof to the Informer, and the other Moiety (if in *London*) to Christ's Hospital, if elsewhere to the Poor of the Town or Place where any such Offence shall be committed, returning the Overplus if any be to the Owner; and where no sufficient Distress can be found, to commit the Offender to the Goal or House of Correction for the County, Riding or Corporation, to be kept to hard Labour for such time as the Justice or Justices of the Peace, before whom such Conviction shall be made, shall direct, not exceeding for any one Offence three Months.

Object. This Clause will be very detrimental to the Clothiers and Woollen Manufacturers, because it obligeth them to fix or cause to be fixed no other Mark to their Cloth or Stuff than their own Christian Name and Surname, and the Place of their Residence; whereas many Clothiers and Woollen Manufacturers use certain Marks by which they have establish'd good Credit for their Goods in Foreign Parts; by which Mark their Goods are inquired after, when their Name and Place of Residence is not known. And many Clothiers who became indebted to their Factors have been impowered by degrees to remove to another Factor, by sending their Cloth to Blackwel-Hall with a new Mark to another Factor; which if his Goods had come to Market in his own Name, as this Bill directs, he could not have done; and a Clause may be so worded effectually to prevent one Clothier from counterfeiting anothers Mark, without depriving the Manufacturers, of the Advantages before recited. This is the only Clause wherein Provision is made before whom the Offence shall be heard and determined, or how levyable, except by deducting out of the Piece of the Cloth for want of Measure, and therefore all other Offences against this Bill are not punishable; all Laws concerning Cloth referred the Determination to Justices of Peace in a summary way.

Provided always, That if any Person or Persons find him or themselves aggrieved by any Order or Warrant, made by any Justice or Justices of the Peace upon any such Conviction before him or them, such Person or Persons may appeal to the next general Quarter-Sessions of the Peace, to be held for the County, Riding or Corporation, where such Conviction shall be made, giving sufficient Notice of such Appeal; and the Determination of such Justices in such Sessions shall be final, and the said Justices shall allow such Costs and Charges to the Party aggrieved as they shall think reasonable; to be levied and paid in such manner as is usual in other Cases of Appeal from the Orders of any Justices of the Peace to the Quarter-Sessions.

Object. As there is no general Clause for Hearing, Determining, Levelling and Disposing; and but one Clause in the whole Act that is so provided for, excepting that where the Buyer shall deduct for false Measure, without any Obligation to remit it to the Uses intended, all the rest of the Bill is useless.

Read 5 May 1714



THE
DRAPE R'S
BILL,

INTITLED,

A Bill for Explaining and Amending the Act of the 10th Year of Her Majesty's Reign, relating to Medly Broad Cloth, &c. With the Clothiers Objections to the said Bill.

Read 1 May 1714.

25

[1]

576.2.1 18

19

B I L L

*For Sale of the late Earl of Ranelagh's
Estate at Chelsea and Cranborn, in
the Counties of Middlesex and Berks.*



WHEREAS Richard late Earl of Ranelagh, as Pay-Master-General of the Forces and Garisons, became Receiver of Imprest, and other Mony, for that Service; and during the time he was so intrusted to Receive and Pay till the End of the Year One Thousand seven Hundred and Two, when his said Employment determin'd, the said Earl received many Millions of Mony, which have been Accompted for to the End of the Year One Thousand Seven Hundred and One; and at the foot of that Accompt there appearing to be a great Sum of Mony due from the said Earl to the Crown: Which Balance, together with other Sums of Mony receiv'd by the said Earl for the said Service, for the Year One Thousand Seven Hundred and Two, hath been carry'd into the said Earl's Accompt for the Year One Thousand Seven Hundred and Two, which is now depending: Besides which Publick Debt, there were considerable Sums of Mony owing by the said Earl of Ranelagh to several Persons, at the time of his Death, which are yet unpaid. And Whereas, since the Death of the said Earl, the Barons of her Majesty's Exchequer, have, at the Instance of her Majesty's Attorney-General, order'd Writs of *Diem clausit Extremum*, to be forthwith Issued against the said Earl of Ranelagh's Estate, for extending the same towards Satisfaction of the said Earl's Publick Debt: By which Proceedings, and the Damages which must inevitably ensue thereupon, the Estate will be very much diminish'd, and become insufficient to pay his said Publick and Private Debts; nor will any Surplus, after all his Debts paid, be left for the Benefit of the several Persons claiming Interest in the same, under the said Earl, by virtue of any Deed or Will. For Remedy therefore in the Premises, *May it please your most Excellent Majesty*, that it may be Enacted; And be it Enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by Authority of the same; That all that the said Earl's Capital Messuage or Mansion House at Chelsea, in the County of Middlesex, and all Houses, Buildings, Stables, Gardens, Orchards, Walls, Fences, Easements, Ways,

Ways, Passages, Waters, Water-Courses, Profits and Privileges thereunto belonging, or therewith used, and all other Lands, Tenements, and Hereditaments, lying, and being in the Parish of *Chelsea*, and the Parish of *St. Martin in the Fields* in the said County of *Middlesex*, or either of them, with their each and every of their Rights, Members and Appurtenances whatsoever thereunto belonging, and the Reversions and Remainders upon any Term or Terms of Years therein, and all Rents, Issues and Profits whatsoever issuing or arising by, or out of the same; and all the Estate, Term and Terms of Years, Right of Entry, Right of Action, Titles, Conditions, Uses, Trusts, Powers, Authorities, therein or thereto, whereof or wherein the said Earl of *Ranelagh*, or any other Person or Persons in Trust for him, or to his Use, stood seized or possess'd, or was or were entitled at any time during the said Earl's Life, together with all and singular the Goods, Utensils, Pictures, Furniture and Household-Stuff of the said *Richard* Earl of *Ranelagh*, which were in the said Earl's Capital Messuage or Mansion House at *Chelsea* aforesaid, or in any the Out-houses and Offices thereunto belonging at the time of his Death; and also all that the Custody, or Office of Custody of all those Two Walks in the Chase of *Cranborn* within the Forest of *Windfor* in the County of *Berks*, together with the Custody of the Lodge there built; and also the Office of the Custody of the Woods in the said Chase of *Cranborn*, together with the Herbage and Pannage of the said Walks, and Brewswood, and Windfalls, and dead Boughs of Trees, and the Mafts, and the Toll, or Duty of Chimage, with all other Fees, Perquisites, Profits and Advantages whatsoever, to the said Offices, or either of them belonging, or in any wise appertaining, or formerly us'd and enjoy'd therewith; and also the Office of Steward and Bayliff of the Mannor and Crown-Lands in *Cluon*, *Clowp Brocas*, *Bewfield*, *Didworth*, *Manchell* alias *Manfell*, and *Buntingbury-Brocas*, in the said County of *Berks*, late Parcel of the Lands and Possessions of the Lady *Sandys*; with all Fees and Advantages whatsoever to the said Offices belonging or appertaining, and all and singular Estates, Terms of Years, Interests of Terms, Reversions, Remainders, Possessions, Rights of Entry, Rights of Action, Titles, Conditions, Uses, Trusts, Powers, Authorities, Interests and Hereditaments whatsoever, of, in, and to the said Offices, Fees and Premises, whereof, or wherein the said *Richard* Earl of *Ranelagh*, or any other Person or Persons in Trust for him, or to his Use, at any time during the said Earl's Life, was, or were possessed of, interested in, or entitled to; together with all and singular the Goods, Utensils, Pictures, Furnitures, and Household-Stuff, of the said *Richard* Earl of *Ranelagh*, which were in the said Lodge at *Cranborn* aforesaid, or in any the Out-houses and Offices thereunto belonging, at the time of his Decease; and also all and singular Letters Patents, Deeds, Copies of Deeds, Writings, Evidences and Minuments whatsoever, to the Premises, or any part thereof belonging, or of Right appertaining; shall from the time the said Earl first became so accomptable, be, and the same are hereby vested and settled, adjudged, declared, and taken to be in the actual and real Possession and Seisin of

(Trustees nominated for the Sale thereof in manner herein after mention'd) and their Heirs, Executors, Administrators and Assigns, respectively, to the End the same may be by them Bargain'd, Sold and Dispos'd of; and the Mony arising thereby applied by them, to, and for such Uses, Intents and Purposes as are herein after expressed and declared, viz. to the End, and upon this special Trust and Confidence, That they shall, and may, with all convenient Speed, make absolute Sale of all and singular the Premises, either

either together, or in Parcels, as Purchasers can be found, and for the best Price and Prices that can reasonably be got for the same: and that they, from time to time, place out and keep the same at Interest upon Parliamentary Funds, or other Securities for Improving the same; for, and during so long time, and until the said Earl's final Accompts with the Crown are made up, finished, and declar'd, and all due Allowances made and allowed unto the Lady *Catherine Jones*, or other succeeding Administrator or Administratrix of the said Earl, when it may appear whether the said Earl was indebted or not, and in what Sum to the Publick, at the time of his Death. And be it further Enacted, by the Authority aforesaid, That the Monies arising by such Sale and Sales, and all the Interest, Profits and Improvements whatsoever, from time to time to be made thereby, in manner aforesaid, shall be apply'd, and the same is and are hereby appropriated to the following Uses; that is to say, First, to pay and satisfy all Charges and Expences in obtaining and passing this Act; and immediately afterwards to pay and satisfy unto the said Lady *Catherine Jones*, all such Charges and Expences as she hath, or may be put unto, in prosecuting the said Earl's Account to a final determination, (for which Payments her Receipt shall be a sufficient Discharge;) and afterwards, for satisfying the said Earl's Publick Debt, if any such shall appear due upon such final Account: And if no such Debt shall then appear to be due, that the same shall be paid to the said *Catherine Lady Jones*, the present Administratrix of the said Earl of *Ranelagh*, with his Will annexed; or if she be then dead, to the succeeding Administrator or Administratrix of the said Earl of *Ranelagh*: and his, her, or their Receipt or Receipts, respectively, for the Sum or Sums of Money so paid, shall be a sufficient Discharge to the said

their Heirs, Executors, Administrators and Assigns on that behalf: And in that Case, the said Money shall be, and is hereby declared and adjudged Assets in her or their Hands, and shall be liable to pay the said Earl's private Debts which he owed to any Persons at the time of his Death, according to the usual Courses of Administration to be observ'd by Executors and Administrators by the Laws of *England*. And be it further Enacted, That if any Surplus shall remain after all the Publick and Private Debts so paid off and discharged, such Surplus shall be paid and distributed to and amongst the several Persons, or their legal Representatives now claiming, or to claim any Estate, Right or Interest, Use or Trust in the Premises, or any part thereof, by any Deed or Deeds, Wills or Codicils, made by him the said late Earl of *Ranelagh*, and in proportion to the real Value of their several and respective Estates, Rights and Interests, Uses and Trusts therein, whilst the Premises remain'd Unfold. Provided always, and be it Enacted by the Authority aforesaid, That

their Heirs, Executors and Administrators, are hereby saved Harmless, and Indemnify'd for what they, or either of them shall do in prosecution of this Act; and shall and may Deduct and Pay unto themselves, out of the Money arising by the Sale of the Premises aforesaid, all such Sums of Money, and Charges, as they shall or may expend or be put unto at any time hereafter, in or about any the matters or things aforementioned.

**A
B I L L
F O R**

Sale of the late Earl of Ranelagh's Estate at Chelsea and Cranborn, in the Counties of Middlesex and Berks.

REASONS

Against the

BILL

For the Relief of

William Paterson Esq;

HIS Claim is grounded on Two Heads.
First, On a Preamble to Subscriptions taken at *London* for the African Company of *Scotland*; by which Mr. *Paterson* is allowed to have a *Premium* of Two *per Cent.* out of the Capital Stock, and Three *per Cent.* out of the Profits for Twenty One Years.

The said Preamble is of no Validity to support Mr. *Paterson's* Claim. And that for the following Reasons.

First, It could only bind the particular Subscribers, and not the Company; unless it had been ratified by the Company. The Persons who were impower'd to take in Subscriptions, having no Power or Authority to dispose of any of the Stock.

Secondly, Mr. *Paterson* himself, about Three Weeks after the Books for taking Subscriptions had been opened at *London*, voluntarily executed, under his Hand and Seal, a Release of all that he could claim by Virtue of that Preamble; * and that upon * *The Release bears date November 29, 1695.*
a Representation made by some of the Nominees, who represented the Discouragement the Undertaking would meet with, if the Subscriptions were clogged with such an extravagant Grant.

Thirdly,

Thirdly, All the Proceedings had in taking Subscriptions at ^{† December} London, were declared by the House of Commons † at that time to be null and void, and the Subscribers to be free from all manner of Tie or Obligation by Virtue of the same. Upon which all the English Subscriptions were relinquished by the Subscribers; and not One Six-pence of them ever paid in to the Company.

Fourthly, The Stock of the Company consisted wholly of Subscriptions taken in Scotland; the Preamble to which makes no mention of any Premium to Mr. Paterfon.

Fifthly, The Stock subscribed for was only 400000 l. and not above One Fourth Part of that paid in. Whereas Mr. Paterfon's Claim is for 2 per Cent. out of 600000 l.

The Second Ground of Mr. Paterfon's Claim is an Order of the Directors of the Company, bearing date the 6th of October 1696. Whereby it is agreed, " That Mr. Paterfon should be allow'd to " transfer and dispose of the Sum of Fifteen Thousand Pounds " Sterling of the English Subscriptions, that were not then disposed of by the said Court of Directors, and to take and " apply to his own proper Use, the first Quarterly Payment " thereof, extending to the Sum of 3750 l. together also with " the like further Sum of 3750 l. being the first Quarter Part " of the Sums subscribed by him the said William Paterfon, and " Messieurs James Smith, Daniel Lodge, James Campbell, and " Joseph Cohen D'Azavedo, Merchants in London. But the same Order bears, that it shall not take effect, unless it be ratified and approved by the General Council of the Company.

Nothing can be claimed by Virtue of the foresaid Order of Directors. And that for these Reasons.

First, This Order was never confirmed by the General Council; but on the contrary rejected with Disdain, and the Directors enjoined not to proceed any farther therein. And that with very good Reason, seeing such a Grant was expressly contrary to the Act of Parliament constituting the Company; by which it is directed, that no one Person shall have above 3000 l. Stock in the Company; and here the Directors would have given to Mr. Paterfon 7500 l. at one dash.

2ly, Altho' this Order had been approved by the General Council; yet Mr. Paterfon could claim nothing by it, because he did not perform the Condition upon which it was granted. He did not transfer and dispose the Sum of 15000 l. of the English Subscriptions, out of which he was allowed to take the Fourth Part. He did not procure the Sums subscribed by himself, and Friends, to be paid in to the Company; and therefore can have no Claim to the first Quarter Part of the same.

Thirdly, If any Share of the Stock had been vested in Mr. Paterfon by Virtue of this Order, would not he have had Credit given him for it on the Books of the Company? He himself being one of the Directors, would have taken care to have Justice done to himself in the Books of the Company, if he had had

had any thing to Claim. But he had no Credit given him on the Books, and therefore cannot be reckoned a Creditor.

Upon his former Application to the Parliament of *Great Britain* for Relief in this matter, the Parliament was pleased to refer him to the Barons of Exchequer in *Scotland*, that he might instruct his Demand in a legal manner before them, and that they might certify what was due to him. He gave in his Demand there, but could not prove any thing to be due to him; neither did they Certify any thing to be due.

The Proofs of what is urged against Mr. *Paterfon*'s Claim, appear from the Journal of the House of Commons, where Mr. *Paterfon*'s Release of the Premium of 2*l. per Cent.* stands recorded. And from the Order of the Directors of the 6th of *Octob.* 1696, which Mr. *Paterfon* himself has produced, and put into the Hands of the Clerk of the House of Commons. By which it appears, that it was to have no effect, *unless ratified by the General Council*; and *unless he procured the Subscriptions therein mentioned*. He does not offer to shew that the said Order was ever ratified by the General Council; or that the Subscriptions therein mentioned were ever paid in.

Mr. *Paterfon* demands an Allowance from the Company of 500*l.* a Year, for his Services, which he computes to amount to 5250*l.* Whilst he was employed in the Service of the Company he had the same Allowance as the other Directors. There were 50 Directors in all, and if every one of them were to have the same Allowance which Mr. *Paterfon* now claims, it would take no less than the Sum of 262500*l.* to satisfy them. And yet every Director is as much entitled to demand this Allowance as Mr. *Paterfon*.

All that Mr. *Paterfon* Pleads in answer to what is objected against his Claim, is a Resolve of a former House of Commons, declaring the Sum that he now demands to be due to him.

Which Sum he now pretends to have out of the Equivalent; out of a Fund that is already appropriated, by the Articles of the Union, to other uses; and from which, it is humbly hoped, the Parliament of *Great Britain* will not think fit to divert it.

Mr. Paterfon's Renunciation and Release.

WHereas, by the Preamble of Subscription to the Company of *Scotland*, Trading to *Africa* and the *Indies*, I *William Paterfon* of the Parish of *St. Giles* in the Fields and County of *Middlesex* Esq; my Heirs, Executors, Administrators and Assigns, were to have and receive 2 *l. per Cent.* of the Sum of 600000 *l.* to be Subscribed, and 3 *l. per Cent.* more of the Profits of the said Fund for 21 Years, or 2 *l. per Cent.* more of the Sum Subscribed some time in 5 Years in Lieu thereof; now know you by these Presents, that I *William Paterfon* for diverse good Causes and Considerations, me thereunto moving do for me, my Heirs, Executors, Administrators, and Assigns Remit, Release, Acquit, Discharge, and quit Claim unto the said Company, and all and every the Subscribers thereunto, their Heirs, Executors, Administrators and Assigns, all and every Part of the said 2 *l. per Cent.* of the Fund, and 3 *l. per Cent.* of the Profits mentioned in the said Preamble of the Subscriptions; in Witness whereof I have hereunto set my Hand and Seal this 29th of *November* 1695.

Sealed and delivered, the
Paper being first Stamped
according to Act of Par-
liament in Presence of
Sic Subscibitur

Henry Ayle
Joseph Boys
Rod. Mackenzie

Sic Subscibitur
William Paterfon

This is a true Copy

Rod. Mackenzie

Great Britain 10 Anne Public Acts c #26

27

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REASONS

HUMBLY OFFER'D,

For Amending and Explaining an Act, made in the Tenth Year of Her MAJESTY's Reign, Intituled, An Act for Regulating, Improving, and Encouraging the Woollen-Manufacture, of mixt or medly Broad Cloth, &c.

IT is Enacted, That the Owner or Occupier of every or any Fulling-Mill- (after an Oath taken before a Justice of the Peace) shall be sole Measurer of all mixt or medly Broad Cloth, which shall be fully Milled and Scoured by him after the 24th of June, 1712.

IT is humbly Objected, That these Persons are not at all qualified for so great a Trust, neither can they be indifferent or impartial Men; because the constant Dependence such Mill-men have on the Clothiers, for Daily Employment, naturally induces them to favour the Persons, by whom they get their Bread; And consequently, dare not refuse giving their consent to the Stamping and Affixing on the said Cloths, much shorter Measure than is Just, according to the said Law.

THE Consequence of this Trust, reposed so uncontrollably in the Mill-men, is, That these mixt or medly Cloths, frequently fall short in Measure; which can be fully prov'd.

THE Hardship whereof, Appears in this, That the Length and Number of Yards, so Stamp'd on such Seal, is to be the Rule of Payment, for every such Cloth by the Buyer of the same, under a Penalty of 20 s. for every such Refusal; although he Loses by means of the said short Measure; And no Penalty laid upon the Mill-men for the same.

YOUR Petitioners likewise Object to the Clause, which lays the Clothier under a Penalty of 20 s. only, if he stretch or strain any such Broad Cloth, after it is fully Wet, Sealed and Stamp'd, above One Yard in Twenty in Length thereof, and one Nail of a Yard in Breadth thereof.

FIRST, Because the same is not sufficient to enforce the Observation of the said Law, as experience has convinced the Petitioners to their great Damage.

AND if in itself the said Penalty had been sufficient, yet the manner of Recovering the same, as prescribed by the said Law, is render'd utterly ineffectual as to any Abuses done, or to be done Your Petitioners; because the Conviction of the Crime, must be, before the Cloth is Sold or expos'd to Sale, and not otherwise: All which is Impracticable, forasmuch as the Buyer has no means of discovering the Fraud, when the Cloth is Bought, nor can it possibly be detected, 'till it is thrown into Water; and by Wetting of it, the Property is then so alter'd, that on that account, he is obliged to accept it, at the Price agreed on; And if it falls a Yard short in Measure (of what's Affixed upon the Seal) after it has been thrown into Water, there can be no Allowance made the Buyer, nor can he Refuse it, without incurring the Penalty of 20 s.

FOR which Reasons, Your Petitioners have humbly applied to this Honourable HOUSE for Relief, and that they may have the Liberty of knowing the Length and Breadth of the Cloths they Buy, without a Penalty for Refusal, as well as the Dealers in all other Commodities whatever.

THEREFORE it is humbly hop'd, That the Length and Breadth of all mixt and medly Broad Cloth, may not be ascertain'd at the Place of making, but at Place of Sale; where both Seller and Buyer may see that equal Justice is done between them; otherwise it seems impossible to prevent the Abuses, that at present are, and will remain upon this Part of the Woollen Trade to the great Disreputation of the same, and to the Prejudice of the Dealers and Consumers of the said Cloth, both at Home and Abroad.

REASONS

Humbly Offer'd,

*For Amending and Explaining an Act
made in the Tenth Year of Her
MAJESTY's Reign, Intituled, An
Act for Regulating, Improving,
and Encouraging the Woollen-
Manufacture, of mixt or medly
Broad Cloth, &c.*

The Clothiers QUERIES to the Drapers,

Humbly Offer'd to the Consideration of the Honourable House of Commons.

Query I.

SINCE every Cloth will gain, strain or wretch in working, one Yard upon twenty, and the Mill-man not being certain to escape the Penalty and Forfeitures unless he stamps the Cloth half a Yard shorter than justly the Water-length is, by reason of the Difference of the Hands that may be in measuring, the Difference of the Substance and working of a Cloth more or less, and last of all, the Difference and Alterations of the Weather; in all which the Cloth is, in relation to Shrinking, more or less subservient to, as a Cord doth the Office of a Weather-glass, by lengthening in wet Weather and shortning in dry; so that the Buyer will unavoidably be intitled to two Yards of Cloth, upon thirty, more than he pays for; (an ample Allowance for Patterns and Remnants) therefore we desire to know the Drapers Reasons for insisting, by their Bill, for a quarter of a Yard more within the true Water-measure.

Memorandum. That if the Drapers object against the abovesaid Advantages in Measure, we are ready to prove the Truth of it, by hundreds of Cloths now in *Blackwell-hall* expos'd to Sale, with the said Allowances over and above what the Buyer will be obliged to pay for.

Query II. Whether the Mill-man may not be guilty of Perjury, and subject to the Punishment and Forfeiture of that Crime, by striking the Water-length shorter than really the true Water-length is; as well as if he struck the Water-length more than justly and truly it is: And if so, as no doubt can be made of it but it is,

Query III. Whether it is not worse than *French* Slavery, and inconsistent with *English* Liberty, that a Law should be made, that the Subjects must be inevitably guilty of Pejury, or subject to severe Forfeitures, as the Consequence of this Bill will be.

Query IV. For what Reason the Mill-mans Oath, strengthened by an Officer chosen by the Buyers, and in their Power to displace, shou'd be rejected, and the City Sworn Measurer again restored.

Query V. Why the Hall-keeper or his Deputy, who resides always at *Blackwell-hall*, should not be as proper an Officer, to determine the Length of all Cloths, as the sworn Measurer of the City, that hath ruined so many Families in the Clothing Countries, and consequently very disagreeable to all Clothiers in the Kingdom.

Query VI. Whether every Seller of any Commodity in this Kingdom doth not claim the Privilege of weighing and measuring to the Buyer, and whether the latter hath not the Liberty to refuse the having of it, if he like not the Seller's Weight and Measure.

Query VII. Whether any Law is now in Force, or ever was, in this Kingdom, to intitle the Buyer with any more than the just Measure, and whether it be consistent with the Interest of this Kingdom to clog the Staple-trade of it, when all other Trades are at full Liberty.

Query VIII. What meaneth, that the Drapers should tell the worthy Members of this Honourable House, that they wet every Cloth they buy, and new dress and shrink it; and, on the contrary, tell the Clothiers that they wet not one in a hundred of *Bradford* and *Trowbridge* Cloth, and that the wetting of it would prejudice every Cloth twenty Shillings, and impossible to mend any Cloth, or at least not one in a hundred, that comes out of that Country.

Query IX. Since it is allowed that the Buyer or his Agent may by indirect ways shorten a Cloth, and make it more narrow than the true Water Measure is, that the Draper should Sollicit so strenuously against that Clause, to impower the Seller upon his Suspicion that any such Fraud hath been committed, to cause it to be Wet anew at *Blackwell-Hall*, near the Measuring Table that is there to be.

Query X. What meaneth, that the Draper shall pretend, that if he Wet a Cloth to new Dress or Cut it, that the true Water Measure cannot be at that time Justly and Truly asserted; and that he cannot make a Discovery of the Clothier's Fraud, 'till his Cloth-worker bring the Cloth to him dry and finished, and then be forced to Wet it a Second time, to make a Conviction; certainly there can be no other meaning in such an absurd Assertion, than to Perplex the worthy Members of this House with difficulty, to cover Designs that they dare not own.

Query XI. Since so many good Laws have been Enacted, to oblige the Clothier to pay the Poor immediately after the Work is done, which is One, Two, Three or Four Months before the Cloth can be exposed to Sale, and the Clothier not permitted to Pay them in any thing but Money; and the Wool commonly paid for, Ten Months before the Cloth is, or can be finished: Whether it be not Reasonable, with Submission to this Honourable House, that a Clause be added to the Drapers Bill now Depending, to make the Act of the Ninth of King *William* more Effectual, by laying a greater Penalty upon the Buyer that shall refuse to give Notes that may carry Interest, from and after Six Months Date.

THE
Clothiers QUERIES
TO THE
DRAPERS.

AS CHEME for raising Two Millions upon Annuities for Lives, out of a Fund of 120,000*l.* per Ann. appropriated to that Use, with greater Ease to the Government, and more Advantage to the Subject than any other Scheme heretofore.

The Scheme is as followeth, viz.



THAT there be 20000 Tickets given out at 100*l.* per Ticket, which amounts to 2000,000 Principal Money, each Ticket intituling the Purcher's Widow, after his Decease to 40*l.* per Annum, during her Life, besides which, Considerable Advantage to his Widow after his Decease, may, himself be so Succesful as to gain in this Adventure, one, two, three, four, five, or ten thousand Pounds; there being 200,000*l.* divided into Prizes, part of the three first Years Interest for the Benifit of the Purcher, the appropriated Fund for this purpose to Commence from *Christmasts*, 1714. the whole of the Prizes to be paid at *Christmasts*, 1717. without Interest. So that the Purcher, besides the Satisfaction of so compleat a Provision made for his Widow after his Decease, there's a great probability of getting an Estate to be enjoy'd by himself, unless it shall so happen that he Dye before the above said Time of Payment, which is but three Years; and to whomsoever it shall so happen, his Prize to be paid to his next Heir at Law, over and above the Annuity to his Widow.

The abovesaid 200,000*l.* being divided into 5239 Prizes, which is not four to one, which is less odds than hath been in any Preceding Lottery.

The Number and Value of the Prizes are as followeth, viz.

2	10000	20000
2	5000	10000
2	4000	8000
3	3000	9000
4	2000	8000
6	1000	6000
20	500	10000
20	400	8000
20	300	6000
30	200	6000
50	100	5000
80	50	4000
5000	20	100000
5239	Total	200000

Now the Ease to the Government as above propos'd, will plainly appear, in that by the most modest Computation that in other Cases have been made, that about 40 in a Thousand may die in a Year, which out of the 20000 as above, is 800, which by the same Rule must be reduced to half the Number, which is 400. Considering the Women are as liable to Death as the Men, nay much more, and their Number the same, the Annuity then entirely ceasing, so that 400 Annuities being paid the first Year, the amount of which is 6000*l.* the 2d, Year 2000*l.* and the 3d, 4800*l.* add together the Surplus of the Yearly Fund of 120000*l.* as above for the 3 First Years, the amount of which you'll find to be 264000*l.* out of which surplus of the first three Years there is 200,000*l.* divided into Prizes, and over and above the 200000*l.* divided into Prizes, there remains of the Surplus of the Three first Years, 64000*l.* to be added to the Surplus of the succeeding Years; so that adding to the Annuities every Year 400, without a Deduction for those that after they have been intituled to their Annuity have dropt off, and their Annuity ceased, yet notwithstanding, upon adding every Year's Surplus of the yearly Fund of 120000*l.* to the yearly Increase of the Annuitys, and you'll find, that at 11 Years end, there's a considerable Surplus, after which Time, instead of increasing they must lessen and diminish, and in 20 Years cannot reasonably be supposed to stand the Government in 3 per Cent. and in 30 Years the Charge will be very inconsiderable; so that at the first, it stands the Government in no more than 6 per Cent. which is abundantly less Charge than any Lottery heretofore, and in 10 or 12 Years will decline in its Charge as before, which manifestly appears to be very easie to the Government: The Advantage to the Subject will as demonstrably appear, if it be considered, how compleat a Settlement is made by a Man for his Wife after his Decease, and consequently for his whole Family, and that upon so reasonable Terms, besides so great a Probability of Advantage to himself during his own Life, and consequently to his Heirs after him, which renders it in all Respects greatly advantageous, the Money to be paid in 4 equal Payments as in the Clafs Lottery: as to the Qualifications of the Subscribers with Respect to Health or other Circumstances of Life, that may expose them sooner to Death, as also the Limitation of the Sum, beyond which no one shall subscribe, or without Limitation, is humbly submitted to the Wisdom of the Parliament.

A
S C H E M E

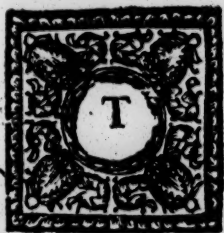
For Raifing

Two Millions

Upon Annuities on the Lives
of Widows, payable out
of a Fund of 120000*l.*
per Ann. (which is above
66000*l.* *per Ann.* less than
the Two Clafs Lotteries)
200000*l.* Part of the sur-
plus of the Three First
Years, is divided in Prizes
by Way of a Lottery, for
the Service of the Year

1714.

CONSIDERATIONS relating to the Intended
DUTIES on PAPER, humbly Submitted to the
Honourable House of Commons.



THE Duty on Paper hath been already advanced, by several Additional Duties, to such a Degree, that *Lemy, Fools-Cap, and Crown Papers*, (the Three most usual Sorts for Printing,) which, before the late Wars paid but Two-pence Half-penny per Ream Custom, do now pay from Two Shillings and Seven Pence, to Two Shillings and Eleven Pence per Ream; being about Fourteen times more than was formerly paid for the Same. And if the Duties proposed should be added, they must then pay from Three Shillings and Five Pence, to Three Shillings and Eleven Pence per Ream, which will amount to Eighteen times more than the first Subsidy: And the Duties upon Writing-Papers far exceed those for Printing.

This Excessive Tax upon Paper, hath already much hindred the Printing of Learned and Useful Books in *England*: If New Duties should be added thereon, (*especially since the Thirty per Cent. on Foreign Books is taken off*,) 'tis to be fear'd the best Part of the Printing Trade will be Lost to the Nation, and Our Neighbours Print and Import upon us all Valuable Books.

The High Duty Impos'd Two Years since upon Stock in Hand bore very hard upon Stationers, and other Dealers in Paper, the Prices not advancing answerably to what was paid: And there are still remaining in their Shops and Ware-houses some Quantities of Paper, that are for the most Part Unsaleable, without very great Loss; and for which they having so lately Paid, do therefore humbly hope this Honourable House will not encrease their Hardship, by laying again a Tax upon Stock in Hand.

And whereas all Writing Papers have but Twenty-four Sheets, and all Papers made for Printing do tell Twenty-five Sheets to the Quire; and when accidentally they prove otherwise, must be made up to the Printers: The Custom-House Officers insisting upon Payment for these Sheets, occasion many Disputes and Difficulties in Passing Entries: Therefore they humbly Pray they may be permitted to Enter all Reams of Paper as formerly, *viz.* Writing Twenty-four Sheets, and Printing Papers Twenty-five Sheets to the Quire.

As for laying a further Duty upon Paper made in *England*, (*after what has been observed in relation to Foreign Books*,) it should seem unnatural, to Crush one of our own Manufactures, made from Materials otherwise altogether useles, which employs so many Hands, and hath been improving Twenty-five Years, and is now brought to so great a Degree of Perfection, that we cannot but Hope this Honourable House will take it into their Consideration, and rather be inclined to Take Off the Tax, that Two Years since was laid upon that useful Manufacture, than Lay New Burthens and Discouragements upon It.

All which is humbly Submitted to the Wisdom of this Honourable House.

**Considerations relating to the
intended Duties on Paper,
humbly Submitted to the
Honourable House of Com-
mons.**

REASONS for a BILL,

PROPOSING

A Reward for the Discovery of the LONGITUDE.

I. **T**HIS Bill is unexceptionable, because it is general, and not confin'd to any one Project, Person, or Method; but gives equal Hopes to all Judicious Proposers whatsoever.

II. Because in this Bill no Money is insisted on before any Method for the Discovery of the Longitude is, upon Trial, actually found Practicable and Useful.

III. Because Sir *Isaac Newton's* own Paper, delivered into the Committee, gives hopes, that the known Method by the Theory of the Moon, which is hitherto not exact enough, may, upon due Encouragement, in time be brought to Perfection.

IV. Because the Method now propos'd is own'd by all, to whom it has been communicated, to be certainly *true in Theory*. It cannot therefore be fit to have it conceal'd, even tho' it were not yet known to be practicable; because in that Case, future Improvements might still make it so.

V. Because its great Use at Land and in Geography is indisputable, and was distinctly observ'd by Sir *Isaac Newton* and Dr. *Halley*, upon the first Proposal of this Method to them. And we beg leave to say, that this Use alone is *so great and extensive*, that if there were no other, it would highly deserve the Encouragement of the Publick.

VI. Because another great Use is also undoubted, *viz.* for all Places in the Narrow Seas, and within about 100 Miles of all Shores and Islands; that is, for all Places where Ships are in the greatest Danger; as Sir *Isaac Newton* own'd to the Committee; so that if this Method extended no farther, yet it would highly deserve the publick Encouragement.

VII. Because there is little or no Reason to doubt of its Use at any Place at Sea, even where Ships are allowed to be in the least Danger; since in the most doubtful Case of all Sir *Isaac Newton* has, in his Paper delivered to the Committee, proposed a most effectual Remedy for the same; as will be clearly understood when the Method it self is known to the World.

VIII. Because this Method will save the Nation great Sums of Money, which the Want of it does now occasion; as will appear upon Trial.

IX. Because the Charges of it will be inconsiderable, in Comparison of the Advantage; as will also fully appear upon Trial.

X. Because it will prevent the Loss of abundance of Ships and Lives of Men; as it would certainly have sav'd all Sir *Cloudsly Shovel's* Fleet, had it been then put in Practice.

XI. Because it is easy to be understood and practis'd by Ordinary Seamen, without the Necessity of any puzzling Calculations in Astronomy.

And we take leave to Recommend the Learned Savilian Professor of Geometry at Oxford, Dr. *Halley*, as the fittest Person in the World for the Tryal, and Practice, and Improvement of this Method; and do hereby Declare, that we are willing that he go equal Shares with us in the Reward, if he please to undertake so Useful a Work, and the Publick please to make that Reward equivalent to the great Dignity and Importance of the Discovery.

June 10. 1714.

Will. Whiston.

Humphry Ditton.

REASONS

For a BILL about the

Longitude.

REASONS

Humbly Offered for

*Passing the BILL for
the better Preventing
the Covering Aliens
Goods Imported.*

8

27

June 7th 1714 33

The Duties upon all silks Callions & Linens the old and new together as the officers have entered them in their Bookes without distinction prove inconsiderable not exceeding the sum of 8242th in a whole year but if the duties of the old Commodities as aforesaid were entered by them = felvors they would be found very inconsiderable by reason most Raggs when printed (with of them felvors will bear no duty) are forced to pay as much as the Richest or finest silks Callions or Linens which are new by reason a great many poore families are Ruined (whose sole business consisted in printing or painting the aforesaid old Commodities) and the Queen never the better but rather the worse for them because the surveying of the aforesaid old Raggs wither silks Callions or Linen take the officers a great deal more time then the surveying of the new, though the new brings in the greatest part of the Revenue) and likewise prove a great hindrance to the sd officers in minding the Queens Affairs of greater importance in other concerns so that it is very probable what her Majesties games by the printing, Painting, or staining, of old silks Callions or Linen. She loseth a great many times over other ways with grievance we humbly beseech the Hon^{ble} House will be pleased to redress according to our Humble petition on Saturday the 22th of the last month to which are subscribed severall of our names and was delivered then to Sr Richard Hoare K^t we are the poorest of the trade and not able to have our case stated in print but all members of the Hon^{ble} House who assist us with their good officers will have the unfained prayers of hundreds of poore families fatherless & widows

The Case of
the Poor Callio
Printers

An ACCOUNT of what Duties were payable by the Act of Tonnage and Poundage at the settling the Book, of Rates Anno 1660. Upon one Hundred Reams of the several sorts of Paper hereafter specified, and likewise what is now to be paid upon Entry of the like Quantity, with what will be payable for the same if the further Duties proposed on Paper should be Enacted, viz.

	Duties payable by the Act of Tonnage and Poundage, Anno 1660.			Duties now payable upon Entry of Paper.				What must be Paid, if the Duties proposed should be Enacted.			
	l.	s.	d.	l.	s.	d.	8ths.	l.	s.	d.	8ths.
Imperial One Hundred Reams	4	15		103	12	6		143	12	6	
Super-Royal One Hundred Reams	4	15		83	12	6		113	12	6	
Royal Fine One Hundred Reams	4	15		63	12	6		83	12	6	
Demy Fine One Hundred Reams	2	17		35	11	7	4	45	11	7	4
Demy Second One Hundred Reams	2	17		28	1	7	4	34	6	7	4
Fine Fools Cap One Hundred Reams	1	1	4½	16	15	2	5	23		2	5
Second Fools Cap, or											
Printing Fools Cap											
Super Fine Pot											
Crown, Bastard, or	1	1	4½	14	5	2	5	19	5	2	5
Genoa Demy Fine, of either Sort											
One Hundred Reams											
Demy Printing One Hundred Reams	1	1	4½	12	11	10	5	16	15	2	5

Note : If the Duties intended on Paper should be laid, several of the Sorts most used, for which there was paid formerly but One Hundred Pound Custom, must then Pay about One Thousand Nine Hundred and Fifty Pounds Sterling.

OBSERVATIONS

**On the intended Duties
on Paper.**

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S O M E
R E A S O N S

*Most Humbly offer'd to the Honourable
House of Commons relating to the Shoe-
makers Case, &c.*

THE Shoe-makers having lately presented to the Honourable House of Commons a Petition setting forth their Miserable Condition, by Reason of the great Decay of their Trade, occasion'd by the Draw-back of a Penny a Pound of the Duty laid on Leather for all that is Exported; and afterwards their Case enlarging particularly on that Subject, whereupon it pleased the said Honourable House to take their Case into their Wise Consideration, and have referr'd it to a Committee to Examine the same, and find out some suitable Means of Redress; which Committee (as appears by the Votes, &c.) are Resolved to be of Opinion, That to alleviate the Grievance of the Shoe-makers, and to Promote their Trade, a New Draw-back of Three Half pence *per* Pound be allow'd for all Shoes, Boots, &c. that shall be Exported; which their whole Body conceives will be of no Advantage to them, for the Reasons following, (*viz*)

I. Because that if the said Draw-back on unwrought Leather be continu'd, it will no ways hinder the same Quantities from being Exported as now.

II. Because that a Penny a Pound allow'd for the whole Hide, will far exceed Three Half pence *per* Pound on Shoes, &c. as is evident by what has been already said to the great Wastes made in Leather, before it can possibly be of Service to the Shoe-makers.

III. Because the Chief of our Traffick is with such Countries whose Heat occasions the Inhabitants to wear the lightest Shoes, whereby Two or Three Pair will scarcely weigh a Pound, so this can be no considerable Benefit to the Trade:

IV. Because that whilst our Leather continues to be Exported, and our Neighbours receive such large Quantities thereof, they are able to Make, and Vend their Shoes cheaper than we; so consequently our Trade is nothing better'd, either at Home or Abroad, by the intended Provision.

V. Because that by means of this New Draw-back, almost the whole Revenue on Leather will be sunk, and no Person (save some Merchants and Forreigners) reap any Advantage thereby.

VI. Because that in former Times, it was thought so great an Advantage to this Kingdom to employ so useful a Body of Men, and to preserve so Beneficial a Trade within our own Kingdom, that the very Transportation of Leather was forbidden under the severest Penalties.

VII. Because that being a Body so Great, so Useful in respect of their Trade, and of late so Serviceable in the Forces Abroad, it would be the greatest Hardship imaginable to suffer those to Perish for want of Employment in the Trade they were brought up to (being now Destitute of any other lawful way of providing for the Subsistence of themselves and their Families) by continuing a Draw-back so pernicious, even to the End it was intended to Benefit, and not by making Void the same, restore them to their former Livelihood, and protect them from Impending Ruin.

Which is the Prayer of, &c.

SOME
REASONS

Most Humbly offer'd to
the Honourable House
of Commons relating
to the *Shoe-makers* Case.

36

76 m. 15
30

T H E
C A S E
O F T H E
P A C K E R S, &c.

Concerned in the *Woollen Manufactures*,
in Relation to *BUCKRAMS*.

Humbly Offer'd to the Honourable House of Commons.

WHereas by several Acts of Parliament, Part of the Duties on Linen was taken off; Buckrams were not then allow'd under that Denomination, but continue to pay the Duty of 22 *per Cent.* it is hoped, the Act for laying an Additional Duty on Chequer'd and Strip'd Linen was not intended to affect Buckrams.

The said 22 *per Cent.* on Foreign Buckrams is a Real Duty of several Thousand Pounds *per Ann.* on the *Woollen Manufactures*, in Fitting of which they are chiefly used, and amounts to above 10 *per Cent.* on some of the said Goods; on account of which several Merchants have oblig'd us to put up Cloth for *Hamborough* and *Holland* without any Tillets, by reason of the Charges on Foreign, and Unfitness of *English* Buckram.

Therefore we humbly pray this Honourable House will Consider the High Duty now paid, and not admit the 15 *per Cent.* Additional Duty on Strip'd and Checquer'd Linens, to affect Buckrams, the Product of our *Woollen Manufactures*, which are again near wholly ship'd off without any Draw-back, which is 22 *per Cent.* Profit to the Publick.

THE
CASE
OF THE
PACKERS, &c.

Concern'd in the *Woollen Ma-*
nufactures in relation to
BUCK RAMS.

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S O M E
R E A S O N S

*Most Humbly offer'd to the Honourable
House of Commons relating to the Shoe-
makers Case, &c.*

THE Shoe-makers having lately presented to the Honourable House of Commons a Petition setting forth their Miserable Condition, by Reason of the great Decay of their Trade, occasion'd by the Draw-back of a Penny a Pound of the Duty laid on Leather for all that is Exported; and afterwards their Case enlarging particularly on that Subject, whereupon it pleased the said Honourable House to take their Case into their Wise Consideration, and have referr'd it to a Committee to Examine the same, and find out some suitable Means of Redress; which Committee (as appears by the Votes, &c.) are Resolved to be of Opinion, That to alleviate the Grievance of the Shoe-makers, and to Promote their Trade, a New Draw-back of Three Half-pence *per* Pound be allow'd for all Shoes, Boots, &c. that shall be Exported; which their whole Body conceives will be of no Advantage to them, for the Reasons following, (*viz.*)

I. Because that if the said Draw-back on unwrought Leather be continu'd, it will no ways hinder the same Quantities from being Exported as now.

II. Because that a Penny a Pound allow'd for the whole Hide, will far exceed Three Half-pence *per* Pound on Shoes, &c. as is evident by what has been already said to the great Wastes made in Leather, before it can possibly be of Service to the Shoe-makers.

III. Because the Chief of our Traffick is with such Countries whose Heat occasions the Inhabitants to wear the lightest Shoes, whereby Two or Three Pair will scarcely weigh a Pound, so this can be no considerable Benefit to the Trade:

IV. Because that whilst our Leather continues to be Exported, and our Neighbours receive such large Quantities thereof, they are able to Make, and Vend their Shoes cheaper than we; so consequently our Trade is nothing better'd, either at Home or Abroad, by the intended Provision.

V. Because that by means of this New Draw-back, almost the whole Revenue on Leather will be sunk, and no Person (save some Merchants and Forreigners) reap any Advantage thereby.

VI. Because that in former Times, it was thought so great an Advantage to this Kingdom to employ so useful a Body of Men, and to preserve so Beneficial a Trade within our own Kingdom, that the very Transportation of Leather was forbidden under the severest Penalties.

VII. Because that being a Body so Great, so Useful in respect of their Trade, and of late so Serviceable in the Forces Abroad, it would be the greatest Hardship imaginable to suffer those to Perish for want of Employment in the Trade they were brought up to (being now Destitute of any other lawful way of providing for the Subsistence of themselves and their Families) by continuing a Draw-back so pernicious, even to the End it was intended to Benefit, and not by making Void the same, restore them to their former Livelihood, and protect them from Impending Ruin.

Which is the Prayer of, &c.

S O M E
REASONS

Most Humbly offer'd to
the Honourable House
of Commons relating
to the *Shoe-makers* Case.

T H E
C A S E
O F T H E
Distillers of London.

E V E R since the Former and Latter War with *France*, and the great Duties laid on Foreign *Brandy*, the Making of *Brandy* from Malted Corn, and other Materials, hath greatly encreased, and been of Service to the Publick, in regard to Her Majesty's Revenue, and the Landed Interest of *Great Britain*.

There hath, for several Years past, (within the *Bills of Mortality*) been used for the Making of *English Brandy* above One Hundred Thousand Quarters of Malt Yearly, which when made into *English Brandy*, pays a very great Duty, besides the great Consumption of Coals, and other Things used in the Manufacturing the said Malted Corn into *Brandy*.

The Quantity of Malted Corn consumed in Making of *Brandy* throughout the whole Nation must be much more than here Inserted, there being few Great Towns but have *Distillers* in them.

By such a Consumption as aforesaid, many Thousand Acres of Land have been employed in the Growing of Corn, which before was Un-tilled; which, with the several Hands employ'd before, and when made into *Brandy*, hath greatly encreased the Riches of the Nation.

The Publick hath receiv'd a farther Advantage by the aforesaid Trade of *Distilling*, by the great Use of *Molosses* and course *Sugars*, the Produce of Her Majesty's Plantations, there being used within the *Bills of Mortality* above Five Thousand Hogheads Yearly, which pay a very great Duty; besides, great Quantities are used in other Parts of *Great Britain*.

By not effectually Preventing the Running of Foreign *Brandy*, the *Distilling* Trade must needs sink. The chief Consumption of *Brandy* being upon the Coasts of *England*, and amongst Sea-faring Men, so that every Gallon of Foreign *Brandy* run, may be Sold as Cheap as we can Sell our *English Brandy*; the Consequence of which (if not prevented) must be the entire Ruin of the *Distilling* Trade, the Lessening Her Majesty's Revenue, and a great Discouragement to the Growth of Corn.

T H E
Distillers Case,

**In Relation to Preventing
the Defrauding Her
Majesty of Her Duties,
by Running of Foreign
*Brandies.***

bill read 26 April 1774

(1)

Great Britain

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REASONS humbly offer'd against the BILL, for the better preventing the Cover- ing of Aliens Goods Imported.

TWO Foundations are laid by the Projectors of this Bill, who are Persons, having Interest in the Scavage Duty, within the City of London. *First*, There are Ancient Laws to support the same; And, *Secondly*, that, by late Experience, Naturaliz'd Foreigners, and others, do enter the Goods of Aliens. The contrary whereof is most true; and consequently this Bill, 'tis humbly hoped, may not pass into a Law.

For First, as to Ancient Laws.

I. By *Magna Charta* it appears, " That all Merchants, Strangers, and Aliens, shall have Encouragement, as well as Liberty, to Buy, and Sell, and Repair hither with their Merchandizes, free of all evil Tolls, by the old and rightful Customs."

9th Hen. III. cap. 30. " In the 9th of *Edward* the Third it was Enacted, " That if haply any Disturbance be done to any Merchant Stranger, for the Sale of his Merchandize in any City or Borough which hath Franchise, the Mayor, or Bailiff thereof being required to provide Remedy thereof, and doeth it not, and he be attained of the same, the Franchise shall be seised into the King's Hands."

5th Hen. IV. cap. 7. " Divers subsequent Statutes have been made with the like View; among which, that of the 1st of *Henry* the Fourth remains necessary here to be mentioned: it is thereby Enacted, " That Merchant Strangers and Aliens shall be entreated and demeaned within the Realm of *England*, as Merchants Denizens shall be used in other Countries."

Which Law is the more remarkable in that, in all other Countries the Freedom of the Merchants importing makes the Goods imported free; and being well explain'd, perhaps, would prove the Scavage Duty it self an evil Toll and Imposition, and not countenanc'd by the Laws of this Realm.

II. The second Ground of this Bill is an Experience of late, that many Naturaliz'd Foreigners have and do frequently enter Scavage Goods in their own Names, &c.

This, if well look'd into and examin'd, will appear a groundless Surmise also; and altho', for Supposition sake, it were allow'd to be true, yet it is demonstrable, that a due Execution of the Law (as it now stands with severe Penalties on such Offenders) is more grievous than the Mischief complain'd of.

So that the two Foundations of this Bill, under the specious Colour of Authority, deriv'd from Ancient Laws, and found Experience, prove meer Suggestions, and laid so as to introduce a Novelty no where practicable.

III. It is well known, by the Law of the Plantations, all Merchants, there settled under Her Majesty's Protection, be Free People of the same, and are depriv'd of the Privilege of sending their Goods elsewhere than into the Dominions and Colonies of or belonging to this Kingdom. And yet, if this Bill pass into a Law, the Goods of this People must be likewise deemed Aliens Goods, contrary to all Usage and Custom.

IV. And as to all *European*, or other foreign Merchants whatever, they must needs decline being concern'd jointly or severally in Ships or Cargoes with *British* Merchants. For in entring their Merchandize, how is it possible to distinguish which be Aliens, and which not; till all be Sold, and the gross Account be rendred and made up? But supposing it possible, yet the Distinction made would furnish matter of so just Complaint, that it cannot be imagin'd any two Persons in the World would Trade together on so unequal Circumstances, since the *British* Merchant meets with no such different Terms on the Foot of his Account of Entry with the foreign Merchant abroad, whether he be his Partner, Correspondent, or otherwise howsoever.

But

V.

But the Inconvenience to Free-born Subjects of *Britain* is not less than that which attends Aliens and Strangers.

And hence the Absurdity of this Bill will chiefly appear. " In the Enacting Part is requir'd, that every Merchant Importer shall by himself, his Agent, or Servant make Oath, that the Goods in his Bill of Entry thereof mention'd, do truly belong to, and are imported on Account of some of Her Majesty's Subjects, and that the same, *nor any part thereof*, do belong to, or are imported on Account of any Alien : " And to this the said Merchant Importer, his Agent, or Servant respectively, shall be able to swear of his own Verity. *iv. B.* We have heard, that " whoever swears in Affirmance of a Thing, the Truth whereof is uncertain to him, such Person is perjur'd *in foro conscientia*, even tho' the Matter sworn happen to be true ; by reason that possibly, and for what he knew thereof, it might be false."

If this Rule be true, which was never yet contradicted, then to comply therewith, and pursue the Tenor of this Bill in the general, is altogether impossible.

For how can a Merchant here import and enter the Goods of another consign'd to him from Parts beyond the Seas, if the Person consigning the same be unknown to the Importer, his Agent, or Servant ? Shall the Man's Word or Letter, or other Signification of his Mind, however express in point, be to him an Evidence strong enough to enable him to make Oath, that such and such Goods are the Goods of Alien, Denizen, or Free-born, to his own Knowledge ? No.

The Person thus presuming to swear, must of necessity be forsworn, *in foro conscientia*, by the Reason and Rule above.

VI.

Besides, neither will it fare better with respect to your own Merchants and Traders in the Outports, as *Bristol, Exeter, Plimouth, &c.* How can they enter their Goods which happen to come by Consignment for the Port of *London* ? Shall the Man be forced to travel 2 or 300 Miles to make this intended Oath ? Or shall he set up an Agent or Affidavit-man, *jurare in verba Magistrum* ?

Well ! but it may be said then, such Merchant, as feareth an Oath, shall not need to swear at all ; it being provided by the Bill, " That if any Person entering as aforesaid refuse to make such Oath, the Goods (only) shall be deemed Aliens Goods, and pay accordingly."

VII.

To which is answer'd, That supposing all Men alike conscientious, all the Goods of all Merchants, whether Free-born or Alien, imported into this Realm, may or shall be deemed Aliens Goods, and pay accordingly : All which is absurd and inconvenient in it self, and yet appears to be the only Purport, Mind, and Intention of the extravagant Projectors of this Bill.

NOTE.

The Law, as it now stands, is a Forfeiture of Goods, and Chattels, if any Person is found Covering of Aliens Goods : So that the whole Bill is destructive to Trade, and tends to oblige a Man to swear to accuse himself ; which is contrary to all Law yet ever made. The Scavage Duty it self is very pernicious to Trade, and payable no where but in the Port of *London*.

REASONS humbly offered against the Bill, for the better preventing the Covering of Aliens Goods Imported.

REASONS

HUMBLY OFFER'D

TO THE

Honourable House of Commons,

Against a Further Duty intended to be laid on Callicoes and Linnens, Printed, Painted, or Stained.

THE present Duties on *White Callicoes* are — $\begin{matrix} l. & s. \\ 52 & : 10 : \end{matrix}$ per Cent. *ad Val.*
 The present Duty of 3 d. per Yard, on *Cal-*
licoes Printed, &c. comes to — $\begin{matrix} 15 & : 00 : \end{matrix}$ per Cent. *more*
 $\begin{matrix} \hline 67 & : 10 : \end{matrix}$

And the intended Duty will also be — $\begin{matrix} 15 & : 00 : \end{matrix}$ per Cent. *more*

So that the whole Duties on *Callicoes* will be — $\begin{matrix} 82 & : 10 : \end{matrix}$ per Cent.

The present Duty of $1\frac{1}{2}$ d. per Yard on *Scotch Linnen*
Printed &c. comes to — $\begin{matrix} 13 & : 00 : \end{matrix}$ per Cent.

And the intended Additional Duty will be also — $\begin{matrix} 13 & : 00 : \end{matrix}$ per Cent. *more*

So that the Whole Duties on *Scots Linnen* will be — $\begin{matrix} 26 & : 00 : \end{matrix}$ per Cent.

THE Consequence of these High Duties will be the Ruin of the *Printing Trade* here, and Encourage Foreigners and Clandestine Traders.

FOR That a Piece of *Callicoe* 36 Yards long Printed here will cost 4 l. 7 s. and the like Piece Exported from hence and Printed in *Holland* will cost but 49 Shillings, which is near 80 Pounds per Cent. Encouragement for the Clandestine Trader to have *Callicoes* Manufactur'd abroad, and Counterfeit the *Queen's Stamp* for the more Effectual Dispersing them into all Parts of the Kingdom.

FOR as the Duty now stands, It is evident very great Quantities of *Callicoes Printed in Holland* are continually run, especially into the Out-Ports.

THE intended Duty, instead of being a Fund to answer the End of the Government will only diminish former Funds, bring in less Money by discouraging Printing here, and encouraging the foul Practice of Running Goods to the utter Ruin of the fair Trader ; as hath been experienc'd in the Case of Pepper, Coffee, &c.

WHEREFORE, It is humbly Prayed, That no further Duty may be laid on *Callicoes and Linnens, Printed, Painted, or Stained here.*

REASONS
AGAINST
A Further Duty
ON
PRINTED CALICOES
AND
LINNENS.

Coningsby's daughters
Ex. for the Coningsby's
T H E

C A S E

O F T H E

Lord Coningsby's two Infant Daughters,

with Respect to the Bill now passing the Honourable House of Commons, for Sale of the Estate of the late Earl of Ranelagh at Chelsea and Cranborne, in the County of Middlesex and Berks.



TH A T the Right Honourable Richard Earl of Ranelagh deceas'd, by his Deed duly Executed, after the Determination of several Estates therein limited, did direct and appoint his House and Gardens at Chelsea, to be sold, and two fifth Parts of the Money arising by such Sale, to be paid to the said Infants his Grand Daughters, and the Survivor of them, their Executors, Administrators, and Assigns.

TH A T the Creditors of the said Earl are now endeavouring to have a Bill passed the Honourable House of Commons, for Sale of the said House and Gardens at Chelsea, being an Estate of Inheritance; and thereby for making the same lyable to their Bond and Book Debts, without any regard to the just Rights of the said Infants, or taking any Notice of a great part of the said Earl's personal Estate, being of a very considerable Value; and which, by course of Law, ought in the first Place to be apply'd for Payment of his Debts, before any of his real Estate ought to be made subject thereto.

*I*T is therefore humbly pray'd that a Clause may be inserted in the said Bill: that the Personal Estate of which the said Earl was possess'd at the time of his Decease, over and above his Funeral Expences, should be apply'd in the first Place in Discharge and Satisfaction of the Debt to the Crown, and other the Debts of the said Earl, in such Order, Degree and Proportion, as the same by Law was and is lyable to.

AN D in case the same be not sufficient for those purposes, but that the said House and Gardens at Chelsea, should be sold for Payment of the said Earl's Debt, in aid of his personal Estate: That in such Case, two parts in five of the Money arising upon such Sale, after the said Debt to the Crown shall be satisfied, should be to and for the Sole Use and Benefit of the said Lord Coningsby's two Infant Daughters, Margaret Coningsby and Frances Coningsby, and the Survivor of them, their Executors, Administrators, and Assigns; or at least that there may be a Saving of Right, Title, and Interest of the said Infants.

THE
C A S E
OF THE

Lord Coningsby's two Infant
Daughters, with Respect to the
Bill for Sale of the late Earl of
Ranelagh's Estate at Chelsea.

To the Honourable the Knights, Citizens and Burgeſſes
in Parliament Aſſembled.

THE HUMBLE
Petition *and* Representation

O F

*The Troopers lately reduc'd out of the Marqueſs of
Harwich's Regiment, now Commanded by Ma-
jor General Sibourg.*

SHEWETH,

THAT your Petitioners have Addreſs'd Mr. *Speaker*,
for Redreſs of the unjuſt Stoppages made out of
their Subſiſtnace by their ſeveral Officers, for Ex-
change of Money, Tents, Tent Equipage, Doctor,
Agency, Clerkage, and Transport-Money, &c. All
which they believe the Government makes Proviſion for; They
being not made mention of in the Eſtabliſhment.

T H A T their reſpective Officers did ſtop from your Petition-
ers Six-pence *per* Day whilſt they were in Camp (except the laſt
Campaign.)

T H A T the Officers of the aforeſaid Regiment have been de-
manded to Accompt with and Pay your Petitioners, as the late
Act made for Officers to Pay the Soldiers directs; yet they do
ſtand in Contempt of the ſaid Act, by Refuſing to Pay your Pe-
titioners.

T H A T your Petitioners have laid their Memorial before the
Honourable Commiſſioners of Publick Accompts, whom they find have
not Power to Redreſs them.

T H A T ſeveral of your Petitioners were much Abus'd, and
ſent Priſoners to the Provost Marshal's Priſon for asking for their
Clearings, and not Signing the Unreaſonable Accompts of their
Officers.

*All which hard Uſage your Petitioners humbly hope Your
Honours will be pleas'd to take into your Considera-
tion, and to Order them ſuch Relief as the Juſtice of
their Caſe requires, and as You in Your Great Ju-
ſtice and Wiſdom ſhall think fit.*

And Your Petitioners, as in Duty bound, ſhall ever Pray, &c.

The Humble

PETITION

Of the Troopers lately re-
duc'd out of the
regts of *Harmich's* Regi-
ment

*The CLOTHIERS REMARKS upon the BILL,
Intituled, A Bill for amending the Act of 10 Re-
ginae relating to Medley Cloth, &c.*

*Humbly offered to the Consideration of the Commons of
Great Britain in Parliament assembled.*

WE have heard, before that late Honourable Committee, a few Instances of Abuses committed by the Mill-men; and what Law is there now in Force, or ever was, that Offences have not been committed against? Certainly, if every Law ought to be repealed for that Reason, as, with Submission to this Honourable House, this Bill doth that of the 10th of the Queen, we should have no Law in Force.

Our Proposals, to this Honourable House, for remedying these Evils complained of, sheweth, we are not against any Law that your Honours, in your great Wisdom, shall think proper to enact for the more effectual obliging the Mill-man to be more exact in his Duty than hitherto he has been; but, with Submission, the Offences seem to be very few, considering how many hundred Cloths come weekly to this Town; but 'tis plain, nothing will satisfy the Drapers but a Law to countenance Frauds, which we have no Reason to fear from the Wisdom and Honour of this House.

We humbly pray, that no Stress may be put to the pretended Clothier, that spoke in the Committee in Justification of the City-Measure, who resides always in London, employs no Factor, but if any difference about Length arises he adjusts it himself; besides, the Sort of Cloth that is made for him is Foreign to this Bill, and is not in the least subject to it: If the Clothiers Business and Circumstances would permit their Residence here also, we know none that would oppose that Measure.

We are altogether unacquainted with Parliamentary Proceedings, so that it is no Wonder we came unprepared with Proof of our Just Complaints against the Oppression we lay under by the sworn Measurer of the City; besides, this Act of the 10th of the Queen has been in Force this two Years, so that is to be presumed we can say nothing of a more early Date; besides, the Burthen we lay under was of such a Weight, that our Fathers could never shake off or have Remedy against: So that we thought it superfluous to take Cognisance of it, and consequently incapable to make the Proof we find was expected.

This Bill, notwithstanding the Drapers, in the Committee, did approve of the Clothiers Proposition of making the *Blackwell-hall* Keeper the sworn Measurer and Determiner of the Length, doth again subject the Clothiers to the City Measure, which has been so grievous to them, which the Wisdom and Clemency of the late Parliament thought proper to suppress, in Relation to mixt Cloth, as appears by the Act of the 10th of the Queen, when the Hall-Keeper is the most proper Person to determine the Length, because he will always be in a Readiness and on the Spot where the Measuring-table will be; but if the City Sworn-Measurer be restored, the getting of him there would be attended with an Expence and Trouble, and many times the Cloth lie a long time Wet, to its great Prejudice, and to the Disappointment and Hindrance of the Draper and Clothworker, by waiting there to get the Persons concerned together.

And it is with Sorrow to all Clothiers, that trade to this City, to think that they should be marked with such ignominious a Distinction from all Traders and Manufacturers of this Kingdom, by intitling the Buyer, for nothing, with two Yards and a quarter of Cloth, upon every thirty, more than he pays for, as this Bill doth, of the Sellers Property, and give them an Opportunity to defraud the Clothier of two Yards more upon every Cloth, which may be so easily prevented by a Clause offered to the Committee by the Clothiers, to Impower the Factors to require the Cloth to be wet out a-new at *Blackwell-hall*; which, if the Draper had not a fraudulent Design, he would not have opposed so honest and just a Proposition, and so strenuously solicit for Opportunity to commit Frauds and Cheats upon the Clothiers as this Act Impowers them privately to do, and bring the Cloth to the Measurer's Table strained in the Length, which contracts the Cloth in Breadth, and in retching the Cloth in its Breadth shortens it in Length, one of which the Buyer cannot fail of Means, let the Cloth be ever so justly and truly made and stamped for Conviction. The said Clause, if added, would have prevented the said Frauds, and save much trouble to the Seller, Buyer, and Clothworker; for 'tis not to be supposed, that the Factor himself will attend half a Day together at the remotest part of the Town, where the Clothworker lives, to see the Cloth wet, and from thence to *Blackwell-Hall* to see it measured, for Ten times the Sallery he now hath; nor for three times send his Apprentice Boy, who is seldom so careful of his Masters Business as he ought, much less to have a due Regard for the Clothiers, and then the Draper and Sworn Measurer

urer are at liberty to go on as they think proper; and 'twou'd be with much more Ease to the Clothworker, to carry the Cloth to the Hall dry than wet, for if he bring but one Cloth so he must be at the Expence of a Horse, when a Porter can bring Six dry.

As to the Pretence of wanting Water, 'tis altogether Frivolous, because there is great Plenty, and more than Sufficient; besides, the Clothier is not against the Draper or Clothworker wetting the Cloth at their Houses, provided the Seller have a Power to wet the Cloth anew at the Hall, where the Measuring Table is to be, when he suspects any Fraud has been Committed by the Buyer, or his Agent, to bring the Penalty upon the Clothier and his Mill-Man.

And a further Discouragement to the Manufacture is, the Clothier cannot be secure from the Penalty, without the Water length is Stamped half a Yard within the true Water Length, so that all Cloths will appear to the Buyer Strained more than really it is; and not being Capable to finish his Cloth, without gaining on One Cloth with another a Yard upon Twenty, 'twill effectually subject him to the Penalty for over-straining; so that he will be liable to Conviction, if he do Strain, or not Strain at all, and whether the Mill-man is Faulty, or not Faulty; If the Bill is Enacted, and put in Execution, the Mill-man cannot escape *Bridewell*, nor the Clothiers the Penalty.

Notwithstanding the Drapers give out, that a Clothier or two are satisfied with the Bill, we know none that are so; Perhaps those that Trade not to this City shew not the Concern as those that do, because it affects them not; and it is too often observed in all Trades and Sciences, that those who are at Liberty take a Pleasure in beholding the Chains of those that are Fetter'd. But if the Bill Extended also into the Country, which God forbid it should, it would soon be seen, that the Clothiers would Unanimously agree that the Bill, if Enacted, would be destructive to every Branch of the Manufacture, which the Drapers will quickly find the ill Effects of; for 'twill be such a Discouragement to the Clothiers, that very few will care to pass the Water and fiery Tryal of the City, and consequently give the Draper and Merchant the Expence and Trouble of buying at Country Fairs; and bring that Noble Revenue of Six thousand Pound per Ann. from *Blackwell-Hall* to *Christ's Hospital* to little or nothing, and no less Prejudicial to the Clothworkers of the City, and cause many Merchants to leave the City, and make their Residence nearer a more proper Market, and lower the Price of Wool, and sink the Wages to the Poor; which by the good Effects of the Act of the Tenth of the Queen, now repealing by this Bill, hath advanced on the latter Three Pence in a Shilling.

We humbly Pray, with Submission to this Honourable House, that this Bill, which tends so much to the Destruction of the Staple Trade of this Kingdom, may not pass into a Law, without a Clause be added to wet every Cloth anew at *Blackwell-Hall*, upon the Seller's Suspicion that Frauds have been committed by the Buyer or his Agent, to shorten the Cloth or make it the more narrow: And that all Buyers shall be Obligated to pay to the just Water Measure, and not to be allowed the Quarter of a Yard within, since every Buyer will have at least two Yards upon every Cloth besides more than he Pays for; and that the Hall-keeper be the Sworn Measurer and Determiner of the Length, if any Difference arise; and that a Clause be added to Oblige every Buyer of Cloth to give Notes, as is required by the Act of the 9th of King *William*, that shall carry Interest from and after Six Months Date.

THE
CLOTHIERS REMARKS
UPON THE
DRAPEERS BILL.

75

To the Honourable the Knights, Citizens and Bur-
gesses in Parliament Assembled.

THE HUMBLE
Petition *and* Representation

O F

*The Troopers lately reduced out of the Regiment
of Carbineers, now Commanded by the Honou-
rable Colonel Backwell.*

SHEWETH,

THE **T**HAT your Petitioners have Address'd the Right Ho-
nourable Mr. *Speaker* for Redress of the Abuses and Il-
legal Stoppages made out of their Subsistence by their
Respective Officers, for Exchange of Money, Tents,
Tent-Equipage, Doctor, Agency, Clerkidge, Judge-Advocate, Car-
riage of Armour, &c. all which they humbly conceive the Go-
vernment makes Provision for, because they are not mentioned in
the Establishment.

THAT the Officers of the said Regiment did stop from the
said Troopers Six-pence *per* Day whilst in Camp, which is illegal.

THAT notwithstanding your Petitioners have demanded of
their said Officers to Accompt with, and clear them, pursuant to
the late Act of Parliament, made for Officers to Accompt with and
pay the Soldiers, they do still stand in Contempt of the said Act,
and refuse to Accompt with or pay your Petitioners.

THAT several of your Petitioners, for refusing to Sign the
Unjust Accompts of their Officers, were sent Prisoners to the Pro-
vost Marshal's Prison, and kept there some Months, only on Bread
and Water; and afterwards try'd for their Lives by a Court-Mar-
shal in *Flanders* as Mutineers, for not Signing as aforesaid.

THAT your Petitioners have Represented their Grievances to
the Honourable Commissioners of Publick Accompts, whom they find
have not such Power as to Remedy them.

*MAY IT THEREFORE please Your Ho-
nours to take the hard Treatment Tour poor Petition-
ers have met with, into Tour serious Consideration,
and to Order them such Relief as their Cases re-
quires, and as You in Tour Great Justice and Wis-
dom shall see fit.*

And Your Petitioners, as in Duty bound, shall ever Pray, &c.

The Humble

PETITION

Of the Troopers lately
reduc'd out of the Re-
giment of Carbineers.

PROPOSAL

FOR

Raising Sixty Thousand Pound *per Annum*,
Without Charge of Collecting,
In a Treble Benefit to the NATION by the Payment.

Humbly Offered to the Parliament of GREAT BRITAIN.

I. **T**HE Duke of Roan, in his *Treatise of the Interest of all Christendom*, tells us, "That *England* is a mighty Animal, that will never die, unless it kills it self: That the *Swiss* seems to be made for the Mountains, and the Mountains for the *Swiss*: That the *Hollanders* seem to be made for the Sea, and the Sea for the *Hollanders*: That it's the Interest of the *Swiss* to be always in Peace, and that it's the Interest of the *Hollanders* to be always in a War; and where Force fails, Money prevails, is a Dutch Proverb.

II. The Interest and Prosperity of this Kingdom depending upon Trade, I shall here shew, by Instances of Fact, how far Foreign Money hath prevail'd in making Laws to the Destruction of our Commerce: *Edward* the Third made the first Advance, by stopping of our Wooll from Exportation, and in the first Settlement of Custom, where the Denizen paid Six Shillings and Eight Pence, the Alien paid Ten Shillings, *Anno vicesimo septimo* Ed. 3. cap. 1. But the Government being left to his Grandson, *Richard* the Second, in his Infancy, Foreign Money prevail'd in getting a Parliament, that made Laws to destroy what he had so happily advanc'd, and by Act of Parliament made *Anno secundo* Rich. 2. cap. 1. all Restraints laid upon Aliens were taken off, and they were put upon an Equal Foot in Trade with the Denizens. *Anno decimo quarto* Rich. 2. cap. 5. a Law was made, "that no Denizen should carry Wooll, Leather, Woollfells, nor Lead, out of the Realm of *England*, to the Parts beyond the Sea, upon pain of Forfeiture of the same, but only Strangers. And I hope it will not be denied here, but that this was a Foreign Parliament. This unhappy Prince was hereby soon dethron'd, and the Government fix'd in a wrong Line, which kept up such Differences between the Houses of *York* and *Lancaster* the succeeding Reigns, that Merchant Aliens had the Benefit of our Merchandize and Commerce, until the Reign of *Henry* the Seventh, who turn'd the Tide, and by the Second Law that he made, obliged Merchant Aliens, made Denizens by Letters Patents, or by Act of Parliament, to pay Aliens Duties; and if any Goods or Merchandize were Enter'd in any other than the true Merchant Owner's Name, he should Forfeit his Goods, be Imprison'd and Fin'd at the King's Pleasure. *Anno tertio* Hen. 7. cap. 7. the Merchants of the *Stillyard*, by their Bribes in the next Reign, destroy'd what was so happily set up in this, and Rooted out the *English* Factory at *Antwerp*; which was happily Retrieved in the Fifth and Sixth Year of *Edward* the Sixth, and upon the same Foot carry'd on the whole Reign of Queen *Elizabeth*, who in her first Year called Aliens Duties the *Antient Revenue of her Crown*, and made them a Security to our Navigation, by obliging all Merchants to pay Aliens Duties that shipp'd upon Foreign Bottoms, *Anno primo* Eliz. cap. 13. All which was overturn'd by Act of Parliament, in favour of *Scotland*, in the first Year of King *James*, by a Subsidy granted to the King for his Life out of Wooll exported, *Anno primo* Jacobi, cap. 33. Which laid the Foundation of our Civil Wars. At the Restoration of King *Charles* the Second, the Book of Rates was settled, and the Aliens Duty established; where the Natural Born Subject paid One Shilling upon the old Subsidy, the Merchant Alien paid Two Shillings; where the Natural Born Subject paid Three Shillings and Four Pence upon a Cloth exported, the Merchant Alien paid a Noble, *Anno duodecimo* Car. cap. 4. In the Twenty-fifth Year of King *Charles*, Aliens Duties were taken off our Woollen Manufactures exported by Act of Parliament, which gave a fatal Stroke to our Merchandize and Navigation. And in the Convention Parliament, *Lilli-bo-lero*, the *Dutchman* in every particular was put upon an Equal Foot with the Natural Born Subject. In the Tenth Year of King *William*, a Bill came from *Holland*, which was pass'd into a Law, to take off all Duties from our Woollen Manufactures exported. No Application was ever made by any *English* Merchant to have the Duties taken off, but a Surprise when it appear'd in the Votes. One *Millner* a Merchant, who bought Goods for Mr. *Dorvel* of *Holland*, kept several Bails of Cloth at a Pack-house in *Coleman-street*; that were pack'd up some Weeks before the Bill came in, and had the Benefit of the Act, who always in former time took the first opportunity of Shipping. But that which at this time gives the true Proof, whether this was a *Dutch* or an *English* Parliament, A Petition was put in by the *English* Merchants, to desire that this Benefit should be limited to the Natural Born Subjects; and a Debate arising, whether their Petition should be consider'd, upon a Division of the House, it passed in the Negative.

III. It is therefore humbly Propos'd, That Ten Groats upon a Cloth exported by Aliens may be added to the Bill depending, for the better Collecting her Majesties Customs upon Goods imported, which will advance Sixty Thousand Pounds *per Annum*: And shall only add, that no *British* Merchant in Foreign Parts is upon an Equal Foot in Trade, with the Natural Born Subject; and that Money in *Holland* at this time upon good Security is at Three *per Cent*.

IV. That this Duty upon the Woollen Manufactory is but One and a Half *per Cent*. as likewise the Duty upon Importation; when many of our Woollen Manufactures are loaded with Eight *per Cent*. Unnecessary Charge.

Inventio Officii et de Processione

THE UNIVERSITY OF CHICAGO

bill read 26 April 1714

47

REASONS

Humbly Offered for

*Passing the BILL for the better
Preventing the Covering Aliens
Goods Imported.*

THE Goods of Aliens and Merchant-Strangers Imported, are by the Laws of this Realm to pay One fourth part more than Her Majesty's Subjects do pay, as the Goods are rated in the Book of Rates made the Twelfth of *Charles* the Second; but not any thing more in the Additional Duties laid since the making the said Book of Rates.

The Freemen of *London* are all Sworn, at their Admittance into the Freedom, not to Colour or Cover the Goods of Aliens; but Unfreemen not being under the same Obligation of an Oath, is one chief Reason why they refuse to take their Freedoms, and do Colour the said Goods of Aliens; by which means the Consignments of Goods from Aliens and Merchant-Strangers, which used to be made to the Freemen, are now almost wholly made to Naturalized Foreigners and Unfreemen: And if no Remedy be given, in time the whole will be lost to the Freemen of this City; all Persons will be discouraged from taking their Freedoms, and few will be left of Substance to perform the necessary Service in the Government of the said City.

All that is desired is, That the Freemen and Unfreemen may be on an equal Foot, and make Oath, that the Goods entred are not Aliens Goods; whereby Her Majesty's Revenue will be advanced, and the City of *London* not lie under such great Discouragements.

REASONS

Humbly Offered for

*Passing the BILL for
the better Preventing
the Covering Aliens
Goods Imported.*

48

T H E
C A S E
O F T H E

*Proprietors of certain Lands and Tenements by Act of
Parliament vested in Trustees, for securing the Harbours
and Docks at Portsmouth and Chatham.*



THAT by an Act of Parliament in the Seventh Year of Her Majesty's Reign, Commissioners were appointed to Treat and Agree for Lands and Tenements, judged proper to be purchas'd for better Fortifying those Places; which said Commissioners inspected the same, and took Inquisition of the Value thereof by Juries upon Oath, and settled and adjusted the Purchase Money accordingly.

THAT by another Act in the Eighth Year of Her Majesty's Reign, those Lands and Tenements are vested in Trustees for the Use of Her Majesty, and by which the Purchase Money so settled and adjusted, is appointed to be paid to the Proprietors.

THAT a sufficient Sum of Money was Given, Rais'd and Paid into the Treasury of the Ordnance (and now lies at Interest in the South-Sea Company) for the Payment of the said Proprietors.

THAT Her Majesty, pursuant to the said Act, was Graciously pleased in *April, 1711.* to appoint Commissioners under the Great Seal of *Great Britain* to execute the said Act; but the Proprietors remain unpaid for the Estates, altho' vested in Trustees for the Use of the Crown, ever since the 10th of *April, 1710.* that Commission having not been executed.

THAT the Proprietors Petition'd this Honourable House last Session; And it appears by the Report of the Committee that the same was referr'd to, how great their Sufferings and Damages at that Time were; upon which the Honourable the Commons of *Great Britain* in Parliament assembled, did Address Her Majesty on their Behalf.

THAT Her Majesty, pursuant to the said Address, was Graciously pleased to appoint Commissioners to inquire and ascertain, what Damages have been sustain'd by the said Proprietors; the Report whereof is now before this Honourable House, and ordered to be taken into Consideration.

THAT altho' the said Commissioners have been very circumspect in their Inquisition, yet the Proprietors with humble Submission conceive, that the Damages reported are not the true and real Damages sustained, and given in upon the Oaths of them and their Witnesses.

THAT the Proprietors depending on an Act of Parliament, have all along expected their Purchase Money, and suited their Affairs accordingly; and are now so involv'd, that if not paid, 'twill be the entire Ruin of some of them, and others will be very great Sufferers, and their Damages daily increase.

THAT the Petitioners humbly pray and now hope for a speedy End of their Sufferings, by executing the said Commission for the Payment of their Purchase Money, together with Interest and Damages as may appear; at the Time of Payment, they have sustain'd; or otherwise to be reliev'd, as the great Wisdom and Justice of this Honourable House shall think fit.

THE
CASE
OF THE

*Proprietors of Lands and Tenements
vested in Trustees, for securing the
Harbours and Docks of Portsmouth
and Chatham.*

The C A S E of Mr. *William Waller*, in Relation to
the Complaint of *Edward Vaughan*, Esq; a Member
of this Honourable House.

TH E said Mr. *Edward Vaughan* did the 16th Day of July 1707. by Articles under his Hand Set and to Farm Let unto Sir *Humphrey Mackworth*, and the said *William Waller*, their Executors and Assigns, several Mines in the County of *Montgomery*.

The Names of the said Sir *Humphrey Mackworth* and *William Waller* were made use of in Trust for the Governour and Company of Mine-Adventurers of *England*, as it appears by the Answer of the said Sir *Humphrey Mackworth* and *Waller* to the Bill exhibited by the Company against them.

About March 1711. the said Mr. *Vaughan* began to sue for the Recovery of the said Mines, by Ejectment at Common Law, upon pretence of Forfeiture, and Non-payment of Duty Ore according to the said Articles, whereupon the said Governour, and Company of Mine-Adventurers of *England*, brought their Bill in *Chancery* to be relieved, and moved the said Court for an Injunction to stay Proceedings at Law, which the Court granted, upon the Company's giving Judgment in Ejectment, and a Release of Errors, which the Company did upon the 8th Day of April, 1713.

About September 1713 a Commission was taken out of *Chancery* to examine Witnesses on the behalf of the said Company, but was not executed by reason of a verbal Agreement then made between the said Mr. *Edward Vaughan*, and Two of the Directors (who were then in *Wales*, deputed to transact Affairs on the behalf of the said Company) that all Proceedings both in Law and Equity should be stay'd until the said Mr. *Edward Vaughan* should come to *London*, when he would hear what Councils on both Sides could offer.

But the said *Edward Vaughan* Esq; since the said Agreement with the said deputed Directors, and before he came to *London*, to know what Council had to Offer, hath taken out a Writ of Possession, and order'd the Execution thereof, to the very great surprize, both of the said Company, and of the said *William Waller*, who were in hopes the Matters in Controversie with Mr. *Vaughan* would have been amicably compos'd according to the said Agreement with the said deputed Directors.

Mr. *Vaughan* alledges that the Sheriff did give his Agent Possession by virtue of that Writ, but the Company deny it. They agree that the Sheriff did call Two or Three Miners out of some part of the Works, and upon their coming out the Sheriff took up a clod of Earth from off the Surface of the Ground, but never went into the Works, otherwise he would have found Men at work there, and who had Orders not to come out but to keep Possession. And Mr. *Vaughan* cannot but acknowledge, that he has indicted all the Miners whose Names he could learn, for not coming out of the Mines; so that in the proper County, the Company's Servants are indicted for keeping of the Possession against the Sheriff, and their Agent *Waller* complained against in Parliament for entering into the Works after Possession was given, so that it is impossible that the worthy Member that complains should be right in both.

So that the true State of the Case is this :

Waller as Agent for the Company had notice given him, that notwithstanding what past between Mr. *Vaughan* and the deputed Directors of the Company to stay Proceedings, and to take no Advantage against one another, that Mr. *Vaughan* had taken out a Writ of Possession, and would be at the Mines with the Sheriff next Morning, or some of his Agents for him. Mr. *Waller* sends to the Workmen the Night before the Sheriff came, to go on with the Bargains he had let them, and if the Sheriff should come to take Possession, that they should remain under Ground, and should not come out, which Orders were observed by all but the Two or Three Miners before mentioned, who were near the Shafts Mouths, who came up to the Surface upon the call of the Sheriff.

But though these Two or Three Miners did come out of the Works, those very Miners told the Sheriff, and one *Ferman*, an Agent to the said Mr. *Vaughan*, that there were more Work.

Workmen in the Works below who would not come up, but would keep Possession; and the Truth of this is ready to be proved to this honourable House when the Witnesses are permitted to appear for that purpose; as also, to prove that the said *Jerman*, by the Order of the said Mr. *Vaughan*, did go to the next Assizes in *Montgomery-shire*, and Indict all the Miners, whose Names he could learn, for keeping Possession against the Sheriff.

Mr. *Waller* was willing to have Possession kept for the Company until a determination of the Matter by the High Court of *Chancery*, in which Court the Cause was then, and is now depending; but he committed no Act of Violence in order thereto, nor did the said *Waller* give any new Orders after the Sheriff had been there.

The Company hath expended upwards of Nine Hundred Pounds upon those Mines, and have not rais'd out of them Eighty Tuns of Ore; and the Mines by such Expence being now likely to make a return to the Company, Mr. *Vaughan* would come into Possession (*pendente Lite*) by complaining of a breach of Privilege, in entering and working his Mines after Possession was given him by the Sheriff; whereas no Possession could be supposed to be given, the Company's Workmen remaining in the Works as aforesaid, which will be proved beyond the least doubt: Nay, the Workmen are indicted as before mentioned, for not coming out of the Mines.

It is observable, That the first notice the Company had of this Complaint, was in the printed Votes of *April* the 27th, That the Committee sat that Day, and closed the Examination the next, before the Person complain'd against could have so much as notice of the Complaint.

Wherefore it is humbly hoped, in Consideration that this Matter is depending in the Courts of Law and Equity, and that the said Waller hath not been heard by himself, or otherwise, that this Honourable House will come to no Resolution to his Prejudice before he be heard.

It is to be noted further, that the 6th of *May* instant, the Company paid to Mr. *Vaughan* 35 l. 1 s. for all the Duty on Ore due to him, and rais'd in his Lordships, pursuant to the Articles between the said Mr. *Vaughan* and *Waller*, as by the said Mr. *Vaughan's* Receipt doth appear.

THE
C A S E
OF
Mr. *William Waller*, upon
the Complaint of *Edward
Vaughan*, Esq; a Member
of this Honourable House.

576. m 18
44

THE
C A S E

OF THE
TOBACCO-MERCHANTS,

Who are become Insolvent, and are Bound to Her MAJESTY
for Duties on Tobacco;

Humbly Represented to the Consideration of the Honourable
HOUSE OF COMMONS.

44

THAT the Tobacco-Traders of this Kingdom have, for several Years, laboured under many Difficulties, by reason of the High Customs Imposed on Tobacco, and the many Plantations of Tobacco in *Europe*; and also have sustained great Losses during the late War; Inasmuch, That many of them are now reduced to extreme Poverty and Want.

THAT the Duties on Tobacco being so very High, and as the Laws stood, in relation to those Duties, the Merchants and Traders, in order to the Carrying on that Trade, were put under unavoidable Necessities of entering into Bonds for Securing the Payment of those Duties; and to provide such Sureties too, as should be Approved of by the Custom-house-Officers, who very often required fresh Securities: So when One Trader in Tobacco had prevailed with another to be Surety for him, Common Friendship oblig'd that Person to do the same Kindness for such Surety, when required: Which Practice in carrying on the said Trade (and indeed the Trade could not otherwise have been Carry'd on) has Involved great Numbers of Traders and their Families, and likewise their Friends, in this Insupportable Misfortune; And many of *them* became Bound to the Publick, and so continued under those Obligations purely to Support the Estates of *Widows and Orphans*.

THAT many of those Traders, being thus reduced to so very narrow Circumstances (to avoid Prosecution and Imprisonment for Life) are fled beyond the Seas, where they must inevitably consume what small Matter they have left in bare Subsistence, being no way able to get any thing where they are; and the Nation loses so many useful Traders; and what Effects they have in the *Plantations*, &c. are so miserably torn to Pieces and consumed, by Prosecutions and Contests, that little or no Advantage can be made of them for the Use of the *Crown*.

THAT the *Case* of these poor Tobacco-Merchants and their Sureties differs very much (as 'tis humbly Conceiv'd) from that of General-Receivers for Counties and their Sureties, they being not obliged so frequently to give Bonds, nor fresh Sureties on so many Occasions, as Tobacco-Merchants and other Traders are; And besides, most of the General-Receivers and their Sureties have Estates in those Counties and Places they are Receivers for, (which Traders in Tobacco seldom or never have) and the Publick can lay their Fingers upon those Estates for their Satisfaction.

THAT these poor Traders (who are reduced to great Want) may be Enabled to keep themselves and their Families from Starving,

THEY most humbly Implore this Honourable HOUSE so far to Consider their Deplo-
rable Case, as to Pass such Bills as are Depending and Petition'd for, For Enabling
the Lord High Treasurer, or Commissioners of the Treasury for the Time being, to
Compound with them in such Manner as to him or them shall seem meet, for so
much as they and their Friends can possibly Raise, towards setting them Free in
the World: Which, 'tis humbly conceiv'd, will be more Advantage to the Publick
than confining these Traders all their Life-time in Prison, or obliging them to con-
tinue in Foreign Parts.

NOTE, THAT the Bill now Depending in this Honourable HOUSE, for *Incouraging*
the Tobacco-Trade (which is under so many Difficulties at present) will, if the Bill do pass
into a Law, prevent, for the future, such Loss as the Publick hath suffered by such Tobacco-
Merchants as are become Insolvent.

THE
CASE
OF THE
TOBACCO-MERCHANTS.

*Who are become Insolvent, and are Bound
to Her MAJESTY for Duties on
Tobacco;*

Humbly Represented to the Consideration
of the Honourable HOUSE OF
COMMONS.

5.

The C A S E of
R O B E R T W I S E,
Late of *London*, T O B A C C O - M E R C H A N T ;

Humbly Represented to the Consideration of the Honourable
H O U S E O F C O M M O N S .

THAT the Tobacco-Traders of this Kingdom have, for several Years, laboured under many Difficulties, by reason of the High Customs Imposed on Tobacco, and the many Plantations of Tobacco in *Europe*; and also have sustained great Losses during the late War; Insomuch, That many of them are now reduced to extreme Poverty and Want.

THAT the Duties on Tobacco being so very High, and as the Laws stood, in relation to those Duties, the Merchants and Traders, in order to the Carrying on that Trade, were put under unavoidable Necessities of entering into Bonds for Securing the Payment of those Duties; and to provide such Sureties too, as should be Approved of by the Custom-house-Officers, who very often required fresh Securities: So when One Trader in Tobacco had prevailed with another to be Surety for him, Common Friendship oblig'd that Person to do the same Kindness for such Security, when required: Which Practice in carrying on the said Trade (and indeed the Trade could not otherwise have been carry'd on) has Involved great Numbers of Traders and their Families, and likewise their Friends, in this Insupportable Misfortune; And many of *them* became Bound to the Publick, and so continued under those Obligations purely to Support the Estates of *Widows and Orphans*.

THAT the said *Robert Wise*, for about 14 Years last past, was so considerable a Trader in Tobacco, that he Imported into the Port of *London* such large Quantities, that he Paid for Customs thereof, near the Sum of 200000 *l.* Sterling.

AND in the Years 1708, and 1709, he Imported into the said Port of *London*, several Quantities of Tobacco, for the Customs of which he Entered into Bonds at the Custom-House.

THAT besides his own Debt, he became Unfortunately and Unadvisedly Bound as Surety, for *Thomas Perrin* and *Cornelius Denn*, Tobacco-Merchants, who are both become Insolvent, and now Prisoners in the *Fleet*; and the said *Robert Wise*, being no Ways able to Pay off the said Bonds (he, to avoid Imprisonment for his Life) was forced to withdraw himself into Parts beyond the Seas, where he must inevitably Consume what small Matter he hath left, in bare Subsistence, being no Ways able to get any Thing where he is; and several Extents having been Issued against him and his Sureties (who are all become Insolvent) his and their Estates and Effects in the Plantations, &c. are so Miserably Torn to Pieces and Consumed, by Prosecutions and Conteſts, that little or no Advantage can be made of them for the Use of the Crown.

THAT the Honourable H O U S E O F C O M M O N S , in the last Session of the last Parliament Resolved,

THAT the House would not Receive any Petition for Compounding any Sum of Money Owing to the Crown, upon any Branch of the Revenue, without a Certificate from the proper Officer or Officers, annexed to the said Petition, Stating the Debt; What Prosecutions have been made for the Recovery of such Debt; and setting forth, how much the Petitioner and his Security were able to Satisfie thereof.

IN Pursuance of the said Resolution, the Commissioners of Her MAJESTY's Customs, have, by their Report, annex'd to the Petition of the said *Robert Wise*, Stated the Debt and Case of the said *Robert Wise*, and have Certified, that he and his Sureties are able to Satisfie only the Sum of 3000 *l.* which is much more than is ever likely to be Recovered upon the Extent and Prosecutions of them.

AND Mr. Attorney-General was pleased on the 3d of *April* last, to acquaint this House, That the Directions given by the said Resolution of the last Session, had been observed; and Application having been made to Her MAJESTY, on behalf of the said *Robert Wise*, She had no Objection to a Bill for his Relief.

WHEREFORE in Regard the Carrying on the Prosecution against the said *Robert Wise* will be of no Benefit to Her MAJESTY, but will utterly Disable him ever to Maintain himself and Family for the future;

He Humbly Prays, That this Honourable House will so far Consider his Misfortunes, as to Relieve him, by Passing the Bill now Depending, for Impowering the Lord High-Treasurer to Compound with him, so as that he may endeavour to keep himself and Family from Starving.

THE
CASE
OF

Robert Wise,

Late of *London, Tobacco-Merchant;*

Humbly Represented to the Consideration
of the Honourable HOUSE OF
COMMONS.

52

To the Honourable the Knights, Citizens and
Burgeſſes in Parliament Aſſembled.

*The Humble Representation and Peti-
tion of Serjeants, Corporals, Drums
and Private Men Disbanded in the
Honourable Lieutenant-General Harry
Mordaunt's Regiment of Foot.*

THAT the ſaid Serjeants, and the reſt of the Regiment have
conſiderable Sums of Money due to them for Subſiſtance and
Off-reckonings or Clearings.

That they have made frequent Applications to the Colonel and
ſeveral of their Officers for Relief in the Premises, but without Effect;
the Officers ſtanding in Contempt of the Law paſſed the laſt Seſſion of
Parliament for obliging them to Account with, and pay the Soldiers, well
knowing that the Poverty of the Soldiers is ſuch, as not to be under
any Ability to carry on a Suit at Law for obtaining their Juſt Demands.

That the Debts due to the Soldiers of this Regiment ariſeth by an
unwarrantable Abufe praſtiſed by the Officers, in illegally detaining part
of their Subſiſtance, and by not having been regularly Cloathed, and alſo
by ſeveral Stoppages made out of that ſhort Subſiſtance under divers
Pretences, viz. For pay to the Surgeon of the Regiment, which is well
known the Queen pays, and allows a Cheſt to, for returns of Money,
&c. and even at the Diſbanding of the Regiment the Officers did not pay
to many of the ſaid Regiment the Bounty Money allowed by Her Ma-
jeſty.

That the Officers will probably, in Juſtification of themſelves, pretend
that they have paid the Soldiers, and have their Diſcharges for the ſame;
but moſt, if not all ſuch Diſcharges, were extorted from the Soldiers by
Violence; many of whom, for reſuſing to give ſuch Diſcharges, were
Threatned, Imprisoned, Cut with Swords, and otherwiſe Ill Uſed; which
Puniſhments brought a Terror upon the other Men of the Regiment, and
made many of them Sign Diſcharges in full rather than undergo the like
ill Uſage.

That part of the ſaid Regiment Garrifoned in *Guernſey* hath Represent-
ed their Hardſhips to the Honourable Commiſſioners of Publick Accounts,
and alſo other Abuses committed againſt the Queen and Government by
False Muſters and otherwiſe, by the Officers of the ſaid Regiment: But the
ſaid Commiſſioners not having any Power to remedy the Abuses complain'd
of, their Power Only extending to Represent Complaints of this Nature
in Parliament. Therefore Beſeeching this Houſe to cauſe our Memorials
that now lying before the Honourable Commiſſioners may be read.

*MAY IT THEREFORE please Your Honours to take
into Your Mature Conſideration the Hardſhips Your poor
humble Petitioners are under, and Veſt the Honourable
Commiſſioners of Publick Accounts with full Power to Re-
lieve Your Petitioners; or otherwiſe, to grant to Your
Petitioners ſuch Relief in the Premises as ſhall appear Juſt
and Equitable.*

And Your Petitioners, as in Duty bound, ſhall ever pray, &

The Humble
P E T I T I O N

O F

*Serjeants, Corporals, Drums,
and Private Men, &c.*

The Cries of the Orphans Groaning under the Yoke of Oppression, laid open in the Humble PETITION of *Margaret Baliol*, and other the Co-heirs of *Peter Baliol*, Esq; deceas'd. Presented

To the Right Honourable the Lords Spiritual and Temporal, and to the Honourable the Knights, Citizens and Burgeses of Great Britain, in Parliament Assembled.

Most Humbly imploring, the inspecting and redressing their Greivances, who cry out aloud for Justice.

HUMBLY SHEWING,

THAT, whereas Your Honours have been fully apprized of the Justice of our Case. THAT by Letters Patents, under the Great Seal of England, Granted by the late King *William*, in the 9th Year of his Reign, to the Seven Daughters and Co-heirs of *Peter Baliol*, Esq; and Dame *Colnet Boden*, his Wife, both Deceas'd: Granting to the Daughters and Co-heirs for ever, the Quit-Rents of the two Provinces of *Munster* and *Lemister*, the Thirds of the Clergy, and the Seven Tenths of the First-Fruits in the Kingdom of *Ireland*; which Grant was made in full Satisfaction and Discharge of a just Debt of 60000*l.* Lent to the Crown of England, by the said *Peter Baliol*, and the Interest thereof, and for other Loyal Services done by the said *Peter Baliol*, and for many other great and weighty Reasons, in the said Letters Patents mention'd; which said Letters Patents were passed in Trust, in the Name of *Richard Fitz Patrick*, and Others whom Your Petitioners do not know, being utter Strangersto them, as these Honourable Houses have been apprized of; and the said Letters Patents have been brought before these Honourable Houses, with Her Majesty's most Gracious Warrant, bearing Date 1702, containing the same in Substance with the said Letters Patents, and thereby totally excluding and debarring the said Pretended Trustees, or any Persons from Receiving the said Rents, and that the Orphans and their Heirs should Receive the same for ever; which said Letters Patents, Warrant as well as Accompts, being brought in the Year 1706, and inspected by these Honourable Houses, was declared to be the Sole and undoubted Right of the said Orphans, and was excepted in the Act of Resumption. And as these Honourable Houses were pleas'd, for our total Redress, to make several Orders for the delivery of the said Letters Patents, &c. Your Petitioners with a deep Sense of the Justice and Equity of these Honourable Houses, do render Your Honour their most sincere and hearty Thanks. Altho' Your Honourable Houses were, in Your great Justice, so pleas'd, in several Sessions of Parliament, to pass several Orders, particularly one on the 13th of Feb. 1707, and another on the 6th of April, 1708, for the immediate delivery of the said Letters Patents, Warrant and Accompts, &c. into our Custody. THAT on the 7th of June, 1711, an Order was Granted by the Honourable House of Peers, in Conjunction with the Honourable House of Commons, for the speedy delivery of the said Letters Patents, Warrant and Accompts, &c. Notwithstanding which several Orders, and Her Majesty's frequently repeated Commands, both in Cabinet and General Councils, particularly on the 10th and 16th of Decem. 1711. Her Majesty's Commands in Council, for the delivery of the said Letters Patents, Warrant and Accompts. Her Orders of the 10th of Decem. 1708, and 25th of July, 1709, and Her Gracious Declaration in June, 1710, in order to be Publish'd (true Copies whereof are hereunto annex'd) yet none hitherto ever came to our Hands, being fraudulently detain'd from Your Oppressed Petitioners: And the Right Honourable the Lords of the Committee of Council, on the 18th of June, 1712, Order'd the said Letters Patents, Warrant and Accompts to be forthwith deliver'd to Your Petitioners, and at a private Committee the 6th of July following, the Right Honourable the Lords were again pleas'd to Order, that the aforesaid Letters Patents, and all other Writings mention'd, should be deliver'd unto Your Petitioners the next General Committee of Council, which was the 18th of the said Month; but they are still detain'd. THAT Your Petitioners prostrated at Her Majesty's Feet, humbly Petition'd that Her Majesty would be Graciously pleas'd to Order that the said Letters Patents, &c. which were in the Custody of the Right Honourable the Earl of *Dartmouth* should

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P E T I T I O N
O F
*Serjeants, Corporals, Drums,
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And as these Honourable Houses were pleas'd, for our total Redress, to make several Orders for the delivery of the said Letters Patents, &c. Your Petitioners with a deep Sense of the Justice and Equity of these Honourable Houses, do render Your Honour their most sincere and hearty Thanks. Altho' Your Honourable Houses were, in Your great Justice, so pleas'd, in several Sessions of Parliament, to pass several Orders, particularly one on the 13th of Feb. 1707, and another on the 6th of April, 1708, for the immediate delivery of the said Letters Patents, Warrant and Accompts, &c. into our Custody. THAT on the 7th of June, 1711, an Order was Granted by the Honourable House of Peers, in Conjunction with the Honourable House of Commons, for the speedy delivery of the said Letters Patents, Warrant and Accompts, &c. Notwithstanding which several Orders, and Her Majesty's frequently repeated Commands, both in Cabinet and General Councils, particularly on the 10th and 16th of Decem. 1711. Her Majesty's Commands in Council, for the delivery of the said Letters Patents, Warrant and Accompts. Her Orders of the 10th of Decem. 1708, and 25th of July, 1709, and Her Gracious Declaration in June, 1710, in order to be Publish'd (true Copies whereof are hereunto annex'd) yet none hitherto ever came to our Hands, being fraudulently detain'd from Your Oppressed Petitioners: And the Right Honourable the Lords of the Committee of Council, on the 18th of June, 1712, Order'd the said Letters Patents, Warrant and Accompts to be forthwith deliver'd to Your Petitioners, and at a private Committee the 6th of July following, the Right Honourable the Lords were again pleas'd to Order, that the aforesaid Letters Patents, and all other Writings mention'd, should be deliver'd unto Your Petitioners the next General Committee of Council, which was the 18th of the said Month; but they are still detain'd. THAT Your Petitioners prostrated at Her Majesty's Feet, humbly Petition'd that Her Majesty would be Graciously pleas'd to Order that the said Letters Patents, &c. which were in the Custody of the Right Honourable the Earl of *Dartmouth*, should be brought to Her Majesty's Sacred Hands, which accordingly were in the beginning of August, 1712, and inspected and perus'd by Her Sacred Majesty (who being fully appriz'd of the Justice of Your Petitioners Case) declar'd they should be forthwith deliver'd to Your Petitioners: in pursuance of which Her Majesty was Graciously pleas'd in a Cabinet Council, on the 25th of August, 1712, to commit them to the Care of His Grace the Duke of *Buckingham*, in order to be deliver'd into the said *Margaret Baliol's* Hands, the next General Council, and on the said 25th of August, Her Majesty was further Graciously pleas'd (for our final Redress) to Grant Her Royal Letter and Order, to the Honourable the Commissioners and Barons of the Exchequer, and to the Right Honourable the Receiver and Paymaster-General, of the Kingdom of *Ireland*, and their Deputies, to Pay us all our Moneys lying ready Cash, Arrears of Rents and growing Rents, and the Interest thereof. And in October following, Her Majesty was pleas'd to Order that 6000*l.* should be Paid to Your Petitioners out of the Exchequer here (for the discharge of some Encumbrances of Your Petitioners Debts, for which I was and daily am threatned to be Imprison'd) to be repaid from the Exchequer and Treasury of *Ireland*, where our Money lies, allowing 8*l.* per cent, for the return, and yet none hath been Paid, altho' Her Majesty had been pleas'd to Endorse a Bill for 2000*l.* the 28th of Sept. 1712; all which Orders, Bills and Royal Letter, are Fraudulently conceal'd from Your Oppressed Petitioners. ALL Her Majesty's Subjects (except Your Petitioners) happily enjoy what Estates and Supports they have, by no other Power, then Her Majesty's and Her Senators, the Right Honourable the House of Peers, and this Honourable House. THAT Your Petitioners are truly sensible of Her Majesty's Gracious Intentions, and Your Honourable Designs, in Granting them a full Redress; but all Your Orders made for the Benefit of Your Oppressed Petitioners, are detain'd or clandestinely deliver'd to some Fraudulent Persons, who convert the Benefit thereof to their own proper Use, to the unparallel'd Abuse of Her Majesty's Royal Prerogative, and the Justice and Dignity of these Honourable Houses, to the utter Ruin of Your Oppressed Petitioners, and a numerous Family, to the amazement of all that hear it. According to Her Majesty's Direction, His Grace the Duke of *Buckingham*, in His great Justice, caus'd the said Letters Patents, Warrant, Accompts and all other Things aforesaid, to be brought in the General Council, which was the 24th of November, 1712, in order to be deliver'd, and Your Petitioner attend'd in order to receive them, and Her Majesty, and the Right Honourable the Lords of the Council, Order'd they should be then deliver'd, but by Fraudulous Combination I was denied Admittance, and the said Letters Patents and other Writings, were left to the Care of Esq; *Blatwell* and Esq; *Southwell*, Clerks of the Council, then in waiting, in order to be forthwith deliver'd to the said *Margaret Baliol*, and the 28th of February following, Her Majesty gave Her repeated Commands in Council, for the delivery of all the said Writings, and several Times since, particularly the 30th of August, 1713, Her Majesty gave a positive Order for the delivery of all our Writings relating to the said Grant, and for the Payment of all our Moneys, Arrears of Rent, and growing Rents, and on the 10th of November, 1713, repeated Her Commands to the same Intent, and on the 20th of January, 1714, gave Her repeated Orders and strict Commands in Council, that the said Letters Patents, Warrant and Accompts, should be forthwith deliver'd, and on the 7th of February, 1714, repeated Her strict Commands in Council, to the same Intent, all tending to Redress Us and Invest Us of our Inheritance and Patrimony, yet still by some clandestine, fraudulent and sinister Means, we are kept out, in Contempt of Her Majesty's Royal Prerogative, Commands and Glory, and the Dignity of the Right Honourable the Lords of Her Majesty's Privy Council, and of the Justice and Authority of the Supreme Legislative Power of this Nation, to an Oppression not to be nam'd amongst Christians. THAT on the 1st of April, 1707, and on the 14th of March, 1708, Your Honours were pleas'd to stop the Rents for our Use, and have made several special Orders for the Payment of all our Moneys, Arrears of Rents, and growing Rents. THAT on the 28th of April, 1708, Her Majesty in Council Order'd, that we might have Access to the Bank and Treasury of *Ireland* to draw such Bills, as Occasion and Necessity requir'd (which said Order (as all Others) was Anticipated and Suppress'd) in pursuance of which, Your Petitioner did on the 26th of May, draw on the Honourable the Barons of the Exchequer, and the Right Honourable the Treasurer, and Paymaster-General, or their Deputies, of the Kingdom of *Ireland*, a Bill of Exchange for 1000*l.* Payable to Sir *Robert Adair*, Knt. or Order, which Bill with the Letter of Advice, were return'd for non-payment. And on the 22d of August, 1713, Your Petitioner did draw a Second Bill of Exchange on the said Barons, and the Right Honourable the Treasurer or Paymaster-General, &c. for 1000*l.* Payable to *William Longfield*, Esq; or Order, for value Receiv'd, with a Letter of Advice and the Queen's Declaration, with which Bill, *William Bromfield*, Esq; was Intrusted, and gave then a Note under his Hand bearing the same Date, for the Payment of the said Sum, if Receiv'd by the said *Longfield*, of which Bill nor Letter of Advice, Your Petitioner can have no Account, nor any Satisfactory Answer. THUS on all sides we are Fraudulently dealt with, being kept out of our Right, depriv'd of our Letters Patents, and other Writings, having not receiv'd any Moneys in so many Years Attendance, which hath exhausted and consumed, that Noble, Ancient and Numerous Family of the *Baliols*.

IN this their extream Necessity and Oppression, therefore, Your Petitioners are forced to fly again to Your Honourable Houses, the Fountain of Justice, for Relief, most humbly praying Your Honours, in Your great Wisdom, Justice and Equity, to inspect our great Greivances, being depriv'd the Privilege of Subjects, and can have no Benefit of the Laws, our Fraudulous Enemies being so Potent in Combination, that they have caus'd the Registers of the Kingdom to be razed, and any Person employ'd by us in this our deplorable Case, is immediately prevented or perverted; so that we must inevitably Perish if not Redress'd by Your Honours, in discovering these Fraudulous, Rebellious Persons, that dare presume to interrupt the Course of Her Majesty's, and Your Honours Justice, and in Granting an effectual Warrant and Order, directed to His Grace the Duke of *Buckingham*, (to whom Her Majesty hath deliver'd our aforesaid Writings) and to the respective Clerks of the Council or Treasury, or other Officers else, where they have lodg'd the said Writings, forthwith to deliver unto the said *Margaret Baliol* (and to no other Person whatsoever, who may attend) in the presence of the Sergeant at Arms of this Honourable House, our Letters Patents, under the Great Seal of Great Britain, Her Majesty's Warrant, the Accompts, Her Majesty's Order of the 10th of December, 1708. Her Order of the 25th of July, 1709. Her Majesty's Gracious Declaration under Her Seal in June 1710, and Her Majesty's Royal Letter, Sign'd in Council, the 25th of August, 1712, and to Order that the aforesaid Declaration, hereunto annex'd, may be Publish'd according to Her Majesty's Royal Intent, and that none of Your Petitioners Moneys already in the Exchequer or Treasury of *Ireland*, or which shall be hereafter in the same (being the Patrimony and Inheritance of the *Baliols*) may be deliver'd to any Person or Persons,

Persons, but retain'd for the Use of Your Petitioners; that the Cries and Complaints of the Oppressed Orphans, may not reach Heaven, for that Justice which the Earth hath depriv'd them from, by Suffering any Person or Persons to enjoy the same, or any moiety thereof, who have no Right or Title thereto, as it is the just Property not only of the Poor Distress'd and Oppress'd Petitioners, but likewise of their Heirs for ever. And that Your Honours may be pleas'd to make an effectual Order, directed to the Honourable the Commissioners of Her Majesty's Revenues, the Barons of the Exchequer, and the Right Honourable the Receiver and Paymaster-Generals, and their Deputies in Ireland, or whom it may Concern; to Pay all the Moneys due to Your Petitioners, with all the Arrears of Rents and growing Rents, and the Interest thereof to *Margaret Baliol*, who is appointed Trustee for all the rest of the Co-heirs, and to no other Person or Persons whatsoever. And that the said Commissioners, Barons, Paymaster and Receiver-General, may be called to give an Account of what they have done with the *Baliols* Moneys. And that Your Honours Order of the 9th of February, 1712, may be deliver'd, and that the above-nam'd *William Bromfield*, may be called to an Account before Your Honours, for the above-mention'd Bill of Exchange of 1000*l*. And further we humbly Pray that Your Honours, in Your great Justice, may be pleas'd (for a final Relief of the long Oppress'd Orphans Your Petitioners) to Address Her Sacred Majesty, that She may be Graciously pleas'd to Issue out Her Royal Proclamation, strictly enjoining and commanding the immediate delivery of our Letters Patents, Warrant, Accompts and all the Writings before-mention'd, and the Payment of all our Moneys, and to Invest us of our Inheritance, and to prevent the Wicked Practices of those Impostors our Adversaries, who defraud the Crown of Her Prerogative, and the Orphans of their just Right, and that Your Honours may be pleas'd (for our total Redress) to cause Your Orders to be Publish'd, that Your Petitioners may be no longer delay'd nor debarr'd from their Birth-right and Inheritance, having nothing to support us any longer, having not Receiv'd any Money in many Years Attendance, altho' Your Honours were pleas'd to Order that all our Moneys should be Paid. WE have borrow'd several Thousand Pounds in Suing for our Right, for which we must inevitably Perish, if these Honourable Houses, the last Sanctuary of the Oppressed, and sure Assertors and Maintainers, of Right, Liberty and Property, will not totally, effectually and expeditiously Redress Your Petitioners, and Grant that whatever Orders relate thereto in the Premises, may be Publish'd in the Votes, according to the methods of Parliament.

And Your Petitioners (as in Duty bound) for this Honourable Assembly shall ever Pray, &c.
Tho' we still remain the Unfortunate Orphans of *Peter Baliol*, Esq; our Ancestors were the Founders of *Baliol-Colledge* in Oxford, and Conquer'd the Island of *Guernsey*, and presented the same to the Crown of ENGLAND.

The True Copy of the Queen's Declaration, Sign'd in Council, in order to be Publish'd.

A N N E R.
WHEREAS by Letters Patents under the Great Seal of England, Granted by the late King *William* of Blessed Memory, in the 9th Year of His Reign, to the Seven Daughters and Co-heirs of *Peter Baliol*, Esq; deceased, viz. *Rachel*, *Martha* and *Margaret Baliol*, *Susan*, *Rebecca*, *Hester* and *Patient*, and to their Heirs for ever, the Quit-Rents of the Two Provinces of *Munster* and *Lemister*, the Thirds of the Clergy, and the Seven Tenths of the First-Fruits in Our Kingdom of *Ireland*, were Assign'd and Convey'd; which Grant was made in full Satisfaction of a just Debt of 60000*l*. Lent unto the Crown of England by the said *Peter Baliol*, and for other great Considerations, and for which we have been sufficiently apprized. Now We, being also very willing and earnestly desirous, that the Co-heirs of the said *Peter Baliol*, and their Heirs, should effectually reap the Benefit and Advantage of the said Letters Patents, and have a speedy Satisfaction pursuant to the Tenour thereof. Do signify, publish and declare, Our Royal Will and Pleasure herein, and do also hereby direct, will, require, and straightway charge and command all Our Loving Subjects, viz. the Barons of Our Exchequer, Treasurer, Paymaster-General, his and their Deputies, and all other Our Officers and Receivers of Our Revenues in Our Kingdom of *Ireland*, and all and every the respective Tenants of Our Quit-Rents, Thirds of the Clergy, and Seven Tenths of Our First-Fruits, and all others whomsoever it may Concern, that they forthwith respectively Pay and cause to be Paid all such Quit-Rents, Thirds of the Clergy, and Seven Tenths of the First-Fruits, in their respective Hands, or that are due to Us, with all the Arrears of Rent and growing Profits thereof, and all the Money and Interest thereof, now lying in ready Cash, for the use of the said Co-heirs above-mention'd, and their Heirs, in Our Exchequer and Treasury, in the Hands of the Commissioners of the Revenue or elsewhere in Our Kingdom of *Ireland*, unto the said *Margaret Baliol*, one of the Co-heirs of the said *Peter Baliol*, and who is appointed Trustee for all the other Co-heirs and their Heirs aforesaid, or to her Lawful Attorney or Assignee, being legally deputed to Receive the same. And that they may no longer be debarr'd nor delay'd herein. We do hereby further direct, strictly charge and command all Our respective Officers above-mention'd, to be aiding and assisting herein to the uttermost of their Power, as they regard and tender Our Good Will, and would avoid the pain of Our highest Displeasure, and to be further proceeded against with the utmost Severity. Given under Our Royal Hand at Our Court at Kensington, the 6th Day of June, in the Ninth Year of Our Reign. Anno Dom, 1710.

The CRIES of the
ORPHANS

Groaning under the
Yoke of Oppression:

Laid open in the Humble

PETITION

OF

Margaret Baliol,

And all the rest of the Co-heirs of
Peter Baliol, Esq; deceased.

Presented to the

Honourable Houses

OF

PARLIAMENT.

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S O M E
REASONS
Most Humbly
OFFERED

To the Consideration of the Right Honourable the House of LORDS, and the Honourable the House of COMMONS; by all the 700 *Hackney* Coachmen and their Widows, to Enable them to pay the Great Tax laid upon them.

WE Pray, that the Lease may be lengthened for the Term of Fifty Two Years, upon which we are willing to pay 50^l by way of Fine, and 8^l. *per Ann.* Rent, so that we may be Intituled to our Licenses in the same manner as the Act now in Force is with the same Covenants and Provisoes, and to be made our own proper Goods and Chattels; for if our Licenses should be lyable to be taken from us at pleasure we shall be ruined; for then the Tradesmen will seize upon our Coaches and Horses, for the Money we owe them; and our Landlords will seize our Goods; and we with our Families must utterly perish.

We Pray, that the Number may be lessened to 700; or that the waiting Jobbs may be Licensed; and that no Coach-Horses may be Lett for Hire without a License; and that no Stage-Coach may be allowed to ply within the Bills of Mortality. And also, that no Gentlemens Servants may be allowed to Assist the Undertakers at Funerals with Mourning-Coaches to the great prejudice of us and our Families.

That the Number of 800 Coaches being so many; the Shop-Keepers Complain of their being Aggrieved thereby, by being constantly Fore-stall'd.

We further Pray, That every Person who is Licensed according to Act of Parliament, may be Obliged to carry his License with him when and as often as he shall be required to go out of Town: And that no Coachman shall have liberty to Let his Coach or Coach-Horses to Hire, without License, but shall upon Letting of either be Obliged to carry his License with him; so that no Coachman may have the Liberty of working two Coaches, with one License; all which will greatly Enable us to pay the Great Tax laid upon us, and also be a help towards the Maintainance of our Families.

**SOME
REASONS**

Most Humbly

OFFERED.

**To the Consideration of the
Right Honourable the House
of LORDS, and the Honour-
able House of COMMONS,
by all the 700 Hackney Coach-
men and their Widows, to
Enable them to pay the Great
Tax laid upon them.**

REASONS

HUMBLY OFFER'D,

*For Amending and Explaining an Act, made in the
Tenth Year of Her MAJESTY's Reign, Intituled, An
Act for Regulating, Improving, and Encouraging
the Woollen-Manufacture, of mixt or medly Broad
Cloth, &c.*

10 Anne Public Act, c. 26

AMONG other Things it is Enacted, That the Owner or Occupier of every or any Fulling-Mill, (after an Oath taken before a Justice of the Peace) shall be sole Measurer of all mixt or medly Broad Cloth, which shall be fully Milled and Scoured by him after the 24th of June, 1712.

TO which it is humbly Objected, That these Persons are not at all qualified for so great a Trust, neither can they be indifferent or impartial Men; because the constant Dependance such Mill-men have on the Clothiers, for Daily Employment, naturally induces them to favour the Persons, by whom they get their Bread; And consequently, dare not refuse giving their consent to the Stamping and Affixing on the said Cloths, much longer Measure than is Just, according to the said Law.

THE mischievous Consequence of this Trust, reposed so uncontrollably in the Mill-men, is, That these mixt or medly Cloths, frequently fall short of the Measure Affixed by them upon the Seal; as can be fully prov'd.

THE Hardship whereof, Appears in this, That the Length and Number of Yards, so Stamp'd on such Seal, is to be the Rule of Payment, for every such Cloth by the Buyer of the same, under a Penalty of 20 s. for every such Refusal; although he Loses by means of the said short Measure; And no Penalty laid upon the Mill-men for the same.

YOUR Petitioners likewise Object to the Clause, which lays the Clothier under a Penalty of 20 s. only, if he stretch or strain any such Broad Cloth, after it is fully Wet, Sealed and Stamp'd, above One Yard in Twenty in Length thereof, and one Nail of a Yard in Breadth thereof.

FIRST, Because the same is not sufficient to enforce the Observation of the said Law, as experience has convinced the Petitioners to their great Damage.

AND if in itself the said Penalty had been sufficient, yet the manner of Recovering the same, as prescribed by the said Law, is render'd utterly ineffectual as to any Abuses done, or to be done Your Petitioners; because the Conviction of the Crime, must be, before the Cloth is Sold or expos'd to Sale, and not otherwise: All which is Impracticable, forasmuch as the Buyer has no means of discovering the Fraud, when the Cloth is Bought, nor can it possibly be detected, 'till it is thrown into Water; and by Wetting of it, the Property is then so alter'd, that on that account, he is obliged to accept it, at the Price agreed on; And if it falls a Yard short in Measure (of what's Affixed upon the Seal) after it has been thrown into Water, there can be no Allowance made the Buyer, nor can he Refuse it, without incurring the Penalty of 20 s.

FOR which Reasons, Your Petitioners have humbly applied to this Honourable House for Relief, and that they may have the Liberty of knowing the Length and breadth of the Cloths they Buy, without a Penalty for Refusal, as well as the Dealers in all other Commodities whatever.

THEREFORE it is humbly hop'd, That the Length and Breadth of all mixt and medly Broad Cloth, may not be ascertain'd at the Place of making, but at Place of Sale; where both Seller and Buyer may see that equal Justice is done between them; otherwise it seems impossible to prevent the Abuses, that at present are, and will remain upon this Part of the Woollen Trade to the great Disreputation of the same, and to the Prejudice of the Dealers and Consumers of the said Cloth, both at Home and Abroad.

REASONS

Humbly Offer'd,

*For Amending and Explaining an Act
made in the Tenth Year of Her
MAJESTY's Reign, Intitled, An
Act for Regulating, Improving,
and Encouraging the Woollen-
Manufacture, of mixt or medly
Broad Cloth, &c.*

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T H E
C A S E

Of the Land-Owners of the Levells of
Havering and *Dagnam*, in the County
of *ESSEX*.

BY a Violent Storm, the 29th of *October*, 1707, some Part of the Walls, in the Levells of *Havering* and *Dagnam*, in the County of *Essex*, was broke down, and a Sluce blown up, which occasion'd a general Overflowing of the said Levells.

That the Land-Owners, by the Direction, and under the Authority of Her Majesty's Commission of Sewers for the said Levells, have rais'd very great Sums of Money to near double the Value of the Lands under Water, which has from Time to Time been employ'd in Attempts to recover the said Lands.

That upon the 29th of *October* last, after Six Years vast Expences, the said Land-Owners stop'd the Breach; and, in a very little Time after, recover'd the said Levells, so that the Land was dry, and ready for Tillage.

That upon the 15th of *February* last, there happen'd a General Storm, which was attended with many Publick Calamities; but the Land-Owners of the aforesaid Levells were in more particular Manner affected with the Fatal Consequences of that Storm, which not only made new Breaches in the Walls of the said Levells, but it broke the Land at the End of the New Works, which were finish'd at near Thirty Thousand Pounds Expence, and has thereby so affected the whole Works, that it is scarce possible to stop it again in the same Place.

To this Expence may be added the Annual Loss of the Rents, and the Land Tax, which has been constantly paid for the same; so that upon a moderate Computation, since this Breach first happen'd, the Land-Owners have lost upwards of Forty Thousand Pounds.

Note, If this Breach is not speedily stop'd, the very great Quantities of Land which has been, and is Daily carry'd away, more especially now, when no Attempts are made to secure it, will certainly Interrupt and Ruin the Navigation of the River *Thames*.

C A S E

Of the Land-Owners of
the Levells of *Haver-*
ring and *Dagnam*, in
the County of *Essex*.

Bill read 26 April 1714

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Another edition
516. m 18 (3) above

(I)

REASONS humbly offer'd against the BILL, for the better preventing the Cover- ing of Aliens Goods Imported.

TWO Foundations are laid by the Projectors of this Bill, who are Persons, having Interest in the Aliens Duty, within the City of London. *First*, There are Ancient Laws to support the same; And, *Secondly*, that, by late Experience, Naturaliz'd Foreigners, and others, do enter the Goods of Aliens. The contrary whereof is most true; and consequently this Bill, 'tis humbly hoped, may not pass into a Law.

For First, as to Ancient Laws.

- I. By *Magna Charta* it appears, " That all Merchants, Strangers, and Aliens, shall
5th Hen. III. cap. 30. " have Encouragement, as well as Liberty, to Buy, and Sell, and Repair hither
9th Hen. III. cap. 1. " with their Merchandizes, free of all evil Tolls, by the old and rightful Customs."
" In the 9th of *Edward* the Third it was Enacted, " That if haply any Distur-
" bance be done to any Merchant Stranger, for the Sale of his Merchandize in any
" City or Borough which hath Franchise, the Mayor, or Bailiff thereof being re-
" quired to provide Remedy thereof, and doeth it not, and he be attained of the
" same, the Franchise shall be seised into the King's Hands.

Divers subsequent Statutes have been made with the like View; among which,
9th Hen. V. cap. 7. that of the 5th of *Henry* the Fourth remains necessary here to be mentioned, it is
thereby Enacted, " That Merchant Strangers and Aliens shall be entreated and
" demeaned within the Realm of *England*, as Merchants Denizens shall be used
" in other Countries."

Which Law is the more remarkable in that, in all other Countries the Freedom
of the Merchants importing makes the Goods imported free; and being well ex-
plain'd, perhaps, would prove the Aliens Duty it self an evil Toll and Imposition,
and not countenanc'd by the Laws of this Realm.

- II. The second Ground of this Bill is an Experience of late, that many naturaliz'd
Foreigners have and do frequently enter Aliens Goods in their own Names, &c.

This, if well look'd into and examin'd, will appear a groundless Surmise also; and
altho', for Supposition sake, it were allow'd to be true, yet it is demonstrable, that
a due Execution of the Law (as it now stands with severe Penalties on such Offen-
ders) is more grievous than the Mischief complain'd of.

So that the two Foundations of this Bill, under the specious Colour of Authority,
deriv'd from antient Laws, and found Experience, prove mere Suggestions, and
laid so as to introduce a Novelty no where practicable.

- III. It is well known, by the Law of the Plantations, all Merchants there settled un-
der Her Majesty's Protection be Free People of the same, and are depriv'd of the
Privilege of sending their Goods elsewhere than into the Dominions and Colonies
of or belonging to this Kingdom. And yet, if this Bill pass into a Law, the Goods
of this People must be likewise deemed Aliens Goods, contrary to all Usage and
Custom.

- VI. And as to all *European*, or other foreign Merchants whatever, they must needs
decline being concern'd jointly or severally in Ships or Cargoes with *British* Mer-
chants. For in entring their Merchandize, how is it possible to distinguish which
be Aliens, and which not; till all be Sold, and the gross Account be rendred and
made up? But supposing it possible, yet the Distinction made would furnish matter
of so just Complaint, that it cannot be imagin'd any two Persons in the World
would Trade together on so unequal Circumstances, since the *British* Merchant meets
with no such different Terms on the Foot of his Account of Entry with the foreign
Merchant abroad, whether he be his Partner, Correspondent, or otherwise
howsoever.

But

V. But the Inconvenience to Free-born Subjects of *Britain* is not less than that which attends Aliens and Strangers.

And hence the Absurdity of this Bill will chiefly appear. " In the Enacting Part " is requir'd, that every Merchant Importer shall by himself, his Agent, or Servant make Oath, that the Goods in his Bill of Entry thereof mention'd, do truly belong to, and are imported on Account of some of Her Majesty's Subjects, and that the same, *nor any part thereof*, do belong to, or are imported on Account of any Alien: " And to this the said Merchant Importer, his Agent, or Servant respectively shall be able to swear of his own Knowledge.

N. B. We have heard, that " whoever swears in Affirmance of a Thing, the Truth whereof is uncertain to him, such Person is perjur'd *in foro conscientiae*, even tho' the Matter sworn happen to be true; by reason that possibly, and for what he knew thereof, it might be false."

If this Rule be true, which was never yet contradicted, then to comply therewith, and pursue the Tenor of this Bill in the general, is altogether impossible.

For how can a Merchant here import and enter the Goods of another consign'd to him from Parts beyond the Seas, if the Person consigning the same be unknown to the Importer, his Agent, or Servant? Shall the Man's Word, or Letter, or other Signification of his Mind, however express in point, be to him an Evidence strong enough to enable him to make Oath, that such and such Goods are the Goods of Alien, Denizen, or Free-born, to his own Knowledge? No.

The Person thus presuming to swear, must of necessity be forsworn, *in foro conscientiae*, by the Reason and Rule above.

VI. Besides, neither will it fare better with respect to your own Merchants and Traders in the Outports, as *Bristol, Exeter, Plymouth, &c.* How can they enter their Goods which happen to come by Consignment for the Port of *London*? Shall the Man be forced to travel 2 or 300 Miles to make this intended Oath? Or shall he set up an Agent or Affidavit-man, *jurare in verba Magistrum*?

Well! but it may be said then, such Merchant, as seareth an Oath, shall not need to swear at all; it being provided by the Bill, " That if any Person entering as aforesaid refuse to make such Oath, the Goods (only) shall be deemed Aliens Goods, and pay accordingly.

VII. To which is answer'd, That supposing all Men alike conscientious, all the Goods of all Merchants, whether Free-born or Alien, imported into this Realm, may or shall be deemed Aliens Goods, and pay accordingly: All which is absurd and inconvenient in it self, and yet appears to be the only Purport, Mind, and Intention of the extravagant Projectors of this Bill.

NOTE. The Law, as it now stands, is a Forfeiture of Goods, and Chattels, if any Person is found Covering of Aliens Goods: So that the whole Bill is destructive to Trade, and tends to oblige a Man to swear to accuse himself; which is contrary to all Law yet ever made. The Aliens Duty it self is very pernicious to Trade, and payable no where but in the Port of *London*.

REASONS humbly offered against the BILL, for the better preventing the Covering of Aliens Goods Imported.

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WHEREAS Her Majesty has been pleas'd, this very Sessions of Parliament, particularly to recommend the Improvement of the *Trade* and *Naval-Force* of *Great-Britain* from the Throne : And whereas it is known, that nothing can be either at Home or Abroad more for the common Benefit of Trade and Navigation than the Discovery of the **LONGITUDE** at Sea ; which has been so long desir'd in vain, and for want of which so many Ships and Men have been lost : Whereas also a Proposal for that Purpose has now been offered to the World for some time, and has met with Approbation among some of the best Judges, to whom it has been Privately discover'd, but for want of any suitable Encouragement could not hitherto be communicated to the Publick : It is humbly desir'd that a Bill, or Clause of a Bill, may be brought in this Parliament, to Appoint a suitable Reward for such as shall first lay before the Publick any sure Method for the Discovery of that **LONGITUDE** ; to be then due, when the most proper Judges, who may be appointed in the Bill, shall declare that such Method is both True in it self, and is also Practicable at Sea : That the lowest Reward may be allotted to the discovering the same within one whole Degree of a great Circle, or 70 Measur'd Miles ; a greater to the discovering it within one half ; and a still greater to the discovering it within one Quarter of that Measure : And that withal, if it be thought fit, proper Rewards may be also allotted to such as shall afterward make any farther considerable Improvements for the perfecting so important a Discovery. This is the humble Desire of the Authors of this Invention, as well as of many others ; who are very unwilling that this their Native Country of *Great-Britain* should lose the Honour and Advantage of its first Discovery, Practice, and Encouragement.

April 29th, 1714.

A
PETITION
ABOUT THE
Longitude.

The CASE of the Officers and Soldiers of the late Garisons of London-Derry and Enniskilling in Ireland, their Re- liets and Representatives.

AFTER the Abdication of the late King *James*, the Protestants in *Ulster* and In *January*,
Connaught associated themselves in order to make head against the Papists. 1688.
King *William* (then Prince of *Orange*) sent them Commissions, upon which 5 Feb. 1688.
they form'd themselves into Regiments.

King *William* and Queen *Mary* by their Declaration
Declare,

22 Feb.
1688.

*That such Lands as should be forfeited to the Crown, by any then in Arms against them in Ire-
land, should be distributed to them that should be aiding in the Reduction of that Kingdom.*

*These Forces being in several Engagements (at Clady-Bridg and elsewhere) defeated
by King James's Army of Irish and French,*

Several of the Officers and Soldiers retir'd into London-Derry.

*And King William having by that time sent Colonel Cuninghame and Colonel Richards with
two Regiments of Foot from England, to join those Protestant Forces in Ireland, they left
their Regiments on board, and came into London-Derry to the Officers and Soldiers there
retir'd. And*

A Council of War was held, the Resolution of which was as followeth.

A Council of War, Tuesday 16 April, 1689.

P R E S E N T,

<i>Colonel Lundy Governor,</i>	<i>Colonel Cuninghame,</i>
<i>Lord Blany,</i>	<i>Colonel Richards,</i>
<i>Colonel James Hamilton,</i>	<i>A Lieutenant-Colonel,</i>
<i>Captain Chidly Coote,</i>	<i>Two Majors,</i>
<i>Captain of the Swallow,</i>	<i>Six Captains.</i>

UPON the Question, Resolv'd, *That 'tis not necessary nor convenient for his Majesty's Ser-
vice, to land the two Regiments now on Board, under Command of Colonel Cuninghame
and Colonel Richards, into the City of London-Derry.*

*That forasmuch as London-Derry is not sufficiently provided with Provisions, or otherwise
tenable against a powerful well-appointed Army; it is therefore advisable for the Principal Officers
to withdraw themselves, that the Town and Soldiers may make the better Terms for themselves by
Capitulation.*

John Muggridge, Secretary.

*Whereupon the Officers above-named, with several others, quitted the Garison. And
The Garison was block'd up with King James's Army of 30000 Men.*

*Upon which the Officers and Soldiers remaining (with others in the City) form'd
themselves into Eight Regiments of Horse, Foot and Dragoons, and Three Independent
Companies, resolving to make the utmost Defence.*

*And continu'd close besieg'd for one hundred and eleven Days (when the Siege was
rais'd, 7 August 1689. upon the Arrival of Major-General Kirke with Succours from
England.)*

*In the Beginning of the Siege, King James (by General Richard Hamilton) sent them
a Letter with Terms of Surrender; a Copy whereof is hereto annex'd.*

To which the Garison return'd the Answer annex'd.

Whereupon King James sent them a Chart-Blank, to insert their own Terms:

Which they also rejected.

The

18 April
1689.

The Transactions of which Siege,
*(Their Sallies on the Enemy without,
 Their enduring the Fire and Bombs within :
 Their Reduction first to Famine,
 Thence to feeding upon Carrion,
 Thence to Pestilence,
 Their Houses in the Country plunder'd and burnt,
 And their Wives and Children driven (like Cattel) to the Walls of the Garison, either
 to be taken in and famish'd with them there, or to be left without, to be kill'd or
 starv'd as the Enemy pleas'd)*

Was then the Subject of Wonder to all that heard it.

But a greater Wonder than that, is left behind ;
 That tho the then three Kingdoms (more than once) own'd so much of their Success
 to the Resolution and Bravery of those Garisons,
 Yet more than Thirteen Thousand Men that defended them, are still unpaid :
 And many of them, or their Relicts, have been since starving in Prisons, or begging
 Bread.

And what's a greater Wonder still,
 These Miserable People know not whom to complain of ;
 All declaring for 'em,
 And none speaking against 'em.
 His Late Majesty commission'd them,
 And afterwards establish'd their Pay ; (of which near Ten Thousand Pounds was paid
 in part, as an Earnest or Acknowledgment of the whole.)
 And by his Declaration he was pleas'd to express himself as a Royal Trustee for
 them, for their Share in the *Irish* Forfeitures :
 (In like manner as his Royal Predecessors had done before him, in Cases of former
 Wars in *Ireland*.)

In 1691. The Lords Committees for *Irish* Affairs were pleas'd to state the Accounts for them,
 and report them to the late Queen *Mary*, with their Opinion, That Satisfaction ought
 to be given them, upon the Reduction of *Ireland*.

In 1698. The House of Commons of *England* (before the Resumption of the *Irish* Forfeitures)
 address'd his then Majesty for a Compensation for their Services and Sufferings.

In 1707. The House of Commons of *Ireland* address'd the Earl of *Pembroke* (then Lord Lieute-
 nant) for the same purpose :
 Which his Excellency laid before her present Majesty.
 Whereupon her Majesty was graciously pleas'd (by her now Lord High Treasurer,
 then Secretary of State) to recommend it to the House of Commons of *Great Britain*.

In 1711. After all which Recommendations,
 The last House of Commons, in their first Session, were pleas'd to refer it to a
 Committee.

5 May 1711. Mr. Serjeant *Richardson* (Chairman of that Committee)
 Reported,

The Neat Sum remaining unpaid for both Garisons to be 195,091 l. 5 s. 6 d.
 Which Report of the Committee was grounded upon the Return thereof made unto
 them by two of the Commissioners appointed by her present Majesty, for stating of
 Debts in King *William's* Reign, upon an Address of the House of Peers to her Majesty
 for that purpose.

In which Account there's nothing stated but the bare Pay, (after all Subsistence before
 paid, and usual Deductions allow'd)

Without any Recompence for Damages sustain'd in the private Estates of the Sufferers,
 computed to above Two Hundred Thousand Pounds.

Part whereof were the Arms of the Garison, provided at their own Charges, taken
 from them by Major-General *Kirke*, and put into the publick Stores, and since used in
 the publick Service.

However, they acquiesce in this bare Pay so reported.

But since that Report,

By reason of the Continuance of the War, they discontinu'd any further Application
 to the last Parliament for Payment.

But the Happy Peace being accomplish'd, the Application is again renew'd by Mr. *Wil-*
liam Hamill, Agent and Trustee for the Proprietors of the said Arrears, Brother of
Hugh Hamill deceased, one of the Colonels in *London-Derry*, who kept a Diary of that
 Siege :

From whence Mr. *Hamill* hath made up the Accounts for each Officer and Soldiers, as
 well for Security of his Principals by whom he is intrusted, as for saving future trouble
 in adjusting thereof, whensoever it shall please the Legislature to pay or grant a Fund for
 the same.

And confiding in their Wisdom and Justice therein, the Petitioners offer no further
 Arguments of their own.

Only humbly craving leave to mention, That (besides the Grants and Remittances
 made by Parliament out of the *Irish* Forfeitures since their Resumption, and after all
 Charges

Charges in executing the Commission for Sale deducted) there was discharg'd by Sale thereof Seven Hundred Thousand Pounds (or more) of Publick Debts (now ten Years since :) Besides what now remains vested in her Majesty, as left undispos'd by the said Trustees.

The gaining of which Forfeitures, was once said to be in a great measure owing to the Resolution and Success of these Sufferers:

Who tho they then came in at the First Hour of the Day, would now be contented (and thankful too) to be last paid, their Principal only, with Loss of twenty four Years Interest and all their Damages.

Copy of General Hamilton's Letter to the Garison of London-Derry.

Gentlemen,

HERE is your King, that resolves to perform all the Conditions you can desire; and that too, under his Hand and Seal, before twenty Witnesses of your own. You shall have the Honour of delivering the Keys of your City into his own Royal Hands, shall be treated as Favourites, and Finishers of this difficult Siege, and intire Reduction of *Ireland*, and faithful Subjects of this Kingdom. Whereas it is two to one, whether you are able to withstand this dreadful Army, and defend your City from utter Ruin and Destruction. Yet if so wonderful a Deliverance should attend you, your Rewards notwithstanding will be uncertain, and future *Interest* will always be prized beyond past *Merit*: Eaten Bread is commonly forgotten, and former Services are too often swallow'd up in Oblivion, especially if there be no future Expectation from those that perform'd them. So that all the Assurances you depend upon, will vanish into *Air*, and the Result of all your Hardships, will be only the Repetition of this miserable Proverb, *we have our Labour for our pains*: but on the contrary, if you submit to your Lawful KING, and join with us, all the Lands of the Absentees, and all such other forfeiting Persons, shall be the Purchase of your Submission, and the Reward of your Loyalty to your Rightful Sovereign: And besides, your own Estates (which are now forfeited) shall be confirm'd to you; by an ACT of Parliament now sitting, of which you your selves shall have the wording; and such of you as are strong and stout, shall serve with us in *Scotland* and in *England*, where Thousands of both Nations are ready to receive and join us (all waiting on the Success of this bloody Siege) with several Thousands of the *French*. The Commission'd Officers shall be continu'd in the same Posts at least, if not advanc'd to a better, and them we shall esteem as Hostages for their Families, which will make us depend on them the more: and when it shall please God to give us the Victory in *England*, which in a few Months we hope to accomplish, we assure you, that even there you shall come in as Sharers of the forfeited Lands. And as for *Scotland*, Duke Gordon is now in possession of the Castle of *Edinburgh* for the KING, *Dundee* is in Arms, and all the KING's Friends are ready to receive him. But if you continue obstinate, your Ruin seems inevitable, by withstanding an Army so well disciplin'd and so powerful, which resolves, if you continue obstinate, to give no Quarter to Man, Woman, or Child.

When once our Cannon and Mortars have rent the Walls in pieces, and the Town is taken by Storm, then tho Thousands of your Wives and Children shall fall down upon their knees, and with repeated Sighs and Groans implore our Pity, we shall doubtless be inexorable, and all their Cries will be drown'd in the loud Acclamations of our victorious Army, which will then be deaf and merciless. And therefore, before it is too late, consider and resolve to accept that Mercy, which your KING is willing now to grant, before you find it be too late, and that it will be out of his power to preserve them from the Rage and Slaughter of an enraged Army, whose Fury cannot be withheld by his Majesty, much less by,

Gentlemen,

Your most Humble Servant,
Richard Hamilton.

Copy of the Garison's Answer.

S I R,

THE Cause we have undertaken, we design for ever to maintain; and question not, but that powerful Providence which has hitherto been our Guardian, will finish the Protection of us, against all your Attempts, and give a happy Issue to our Arms. We must let you know, That KING *William* is as capable of rewarding our Loyalty as KING *James*; and an *English* Parliament can be as just and bountiful to our Courage and Sufferings, as an *Irish* one: And that in time we question not, but your Lands will be forfeited rather than ours, and confiscated into our Possession, as a Recompence of this signal Service to the Crown of *England*; and for this inexpressible Toil and Labour, Expence of Blood and Treasure, pursuant to their Sacred Majesties Declaration to that purpose; a true Copy whereof, we herewith send you, to convince you how little we dread your Menaces. We remain, &c.

THE
CASE
OF

The Officers and Soldiers of the
late Garisons of *London-Derry*
and *Enniskilling* in *Ireland*, their
Relicts and Representatives.

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524

T H E
C A S E
O F T H E

Officers of Lieutenant General *Hamilton's* late Regiment of Foot (Subjects of *Great-Britain*) Broke in the Service of the *States General* of the United Provinces.



THAT the said Regiment was Levyed in *Scotland*, in the Year 1692. And was brought on the Establishment of *England*, in the Year 1694. and Served in *Flanders* on that Foot, until the Peace of *Ryswick*.

That in the Year 1701. the said Regiment was sent over, by his late Majesty King *William*, of Glorious Memory, to the Service of the *States General*; in which they continued all the last War, (with unquestionable Fidelity) with the other *British* Regiments, who were Commanded to Serve the said *States*.

That the said Regiment, after their Long and Faithful Service, was Broke at *Berganopzoom*, the 1st. of November 1714. And tho' the Officers thereupon made frequent Petitions to the *States*, they could not obtain *Half-pay*, or any Allowance whatsoever.

That the *British* Regiments in *Holland*, being Commanded into that Service by the Crown, for the Common Cause, Continued nevertheless to be Corps of *British* Troops, (Recruiting always in *Britain*, by an Order from the Crown) their Service in *Holland* being as much an act of Obedience to their Prince, as the Service of those Bodies of Troops, who were continued in the Pay of *Great Britain*, at whose Disposol, they have not only ever been, but always lyable to be called over to the Assistance of the Nation.

Therefore, They Humbly desire, that the Premisses may be taken into Consideration, that after their Long and Faithful Services, they may not be the only Unfortunate Officers (Native Subjects of *Great Britain*) left Unprovided for.

THE
CASE
OF THE

Officers of Lieutenant
General George Ha-
milton's Regiment.



TO THE
Right Honourable,
THE
*Knights, Citizens and Burgeses in Par-
liament Assembled.*

The PETITION of *Martha Bayley* relating to the several
Grand Abuses in Her Majesty's Royal Hospital near *Chelsea*,

Most Humbly sheweth,

THAT your Petitioner laid before the Board of General Offi-
cers the Clandestine Practices put in Execution, relating to
the receiving of Persons to the Benefit of the said Hospital,
who never were in the Service; and touching the Money de-
posited as a Reward to the Persons as caused them to be so Entertain'd.
Also the continuing Persons on the Book who had been Dead above
two Years, whilst their Pension was continually paid as Effectually as
if they had been alive; with other fraudulent Acts, to the great Dis-
grace of the said Hospital; which Petition was inquir'd into by the
Lords Commissioners, acting for the said Hospital: But the Chief
Offender being distinguish'd in his Office there, and by reason of his
Place, having a large Interest, did thereby prevent the happy Issue
which might otherwise have attended that Application. And in order
to disappoint the Success propos'd by your Petitioners said Applica-
tion, some are put into Prison, and others threatned; and to invali-
date the Petitioners Evidence, they would insinuate a Belief, That she
is Mad, but she's able to give Testimonies to the contrary, as well
as of her Honesty.

THAT they now proceed with a greater Assurance than ever,
to the great Damage of the Government, who has been impos'd upon
by Forgery relating to the said Hospital.

*The Petitioner therefore most humbly begs, That your Honours will
be pleas'd to appoint a Committee to inspect the said Abuses, with-
out referring them elsewhere; and to direct, That the Books may
be sent for (without any prior Notice) from the Hospital, in
which she doubts not but to make appear what she has alledged,
strengthen'd by Witnesses. And further prays, That those Wit-
nesses (whose Names and Habitations she is ready to produce to
your Honours) may be sent for in order to a clear Hearing of the
whole Matter.*

And your Honours Petitioner will ever pray, &c.

THE
PETITION

OF

Martha Bayley.

63
18
53

The CASE

Of the *Importers* of *Linnen*, and *Linnen-Drapers*, and *Packers* in *LONDON*, as to the several Duties demanded on *Linnens*, *Lawns*, *Neck-cloths*, *Barras*, and *Buckrams*, Imported from *Hambrough*.

THAT by an *Act* passed the *Second Session* of the last *Parliament*, entitled, *An Act for laying several Duties upon Soap, and Chequer'd and Striped Linnens*; it is, amongst other Things, *Enacted*, That a Duty of 15 *l. per Cent. ad Valorem*, should be laid upon all Chequer'd and Striped Linnens, and all Linnens Printed, Painted, or Dyed after the Manufactory, or in the Thread, to be Imported during 32 Years; and 7 *l. 10 s.* half Duty for Stock-in-hand.

Lawns, *Barras*, and *Buckrams* are distinctly rated by those Names in the *Book of Rates*, and not therein charged as *Linnen*.

It is conceived this *Act* did not intend to charge them by other Names. And the Duty laid on these Goods by former *Acts* of *Parliament*, amount to 22 *l. per Cent.*

The Duty laid on Striped Linnens, is demanded for *White Lawns*, and all Linnens Imported which are cross-barr'd or shaded, tho' *All White*.

The like is demanded for *Silesia Neckcloths* which are not striped, but run two or three times at the End only of every Neckcloth, for Ornament, with white Thread: Which is conceiv'd to be no Stripe within the Meaning of the said *Act*.

And as to *Barras* or *packing Canvas*, whether Chequer'd, Striped, or Plain, they are all alike rated in the *Book of Rates* under the Name of *Barras*, and were never rated as *Linnen*, or distinguished one from the other; And a Duty of 15 *l. per Cent.* is demanded also for them, and 7 *l. 10 s.* for such Stock-in-hand.

Your Petitioners humbly apprehend, That no other Linnens, under the Name of Striped or Chequer'd Linnens, were intended to be charged with the aforesaid Duties, than Colour'd Striped Linnens and Colour'd Chequer'd Linnens; and not any of the Goods which We desire to be explain'd, as not included in the said Charge. And Your Petitioners conceive the said Duties on Colour'd, Striped, and Chequer'd Linnens were design'd to prevent the Consumption thereof, in Prejudice to the Duties on Callicoes Printed and Painted here.

And that if the said 15 *l. per Cent.* should be chargeable on the Goods above-desir'd to be explain'd, It would not only obstruct the Exportation of the Woollen Manufactures of this Kingdom, with which the said Goods are purchased Abroad, But come near to an utter Discouragement of Importing the said Goods for the future; Which, by laying so many Duties as will amount to 37 *l. per Cent.* must necessarily lessen the Custom charged thereon.

Upon Application to the last *Parliament* for Relief in the Premises, This House inserted a Clause in the Bill for encouraging the Tobacco Trade: Which Bill not passing the Honourable House of Lords that *Parliament*, Your Petitioners again apply to this Honourable House to be relieved.

Therefore Your Petitioners most humbly pray This Honourable House will please to relieve them in the Premises, either by Explaining the said *Act* of *Parliament* in Respect to the said 15 *l. per Cent.* claimed on the above Goods on Importation, and half thereof on Stock-in-hand, or in such Manner to this Honourable House shall seem meet.

THE
PETITION

OF

Martha Bayley.

63
18
55

The CASE

Of the *Importers* of *Linnen*, and *Linnen-Drapers*, and *Packers* in *LONDON*, as to the several Duties demanded on *Linnens*, *Lawns*, *Neck-cloths*, *Barras*, and *Buckrams*, Imported from *Hambrough*.

THAT by an *Act* passed the *Second Session* of the last *Parliament*, entitled, *An Act for laying several Duties upon Soap, and Chequer'd and Striped Linnens*; it is, amongst other Things, *Enacted*, That a Duty of 15 *l. per Cent. ad Valorem*, should be laid upon all Chequer'd and Striped Linnens, and all Linnens Printed, Painted, or Dyed after the Manufactory, or in the Thread, to be Imported during 32 Years; and 7 *l. 10 s. half Duty* for Stock-in-hand.

Lawns, *Barras*, and *Buckrams* are distinctly rated by those Names in the *Book of Rates*, and not therein charged as *Linnen*.

It is conceived this *Act* did not intend to charge them by other Names. And the Duty laid on these Goods by former *Acts* of *Parliament*, amount to 22 *l. per Cent.*

The Duty laid on Striped Linnens, is demanded for *White Lawns*, and all Linnens Imported which are cross-barr'd or shaded, tho' *All White*.

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And as to *Barras* or *packing Canvas*, whether Chequer'd, Striped, or Plain, they are all alike rated in the *Book of Rates* under the Name of *Barras*, and were never rated as *Linnen*, or distinguished one from the other; And a Duty of 15 *l. per Cent.* is demanded also for them, and 7 *l. 10 s.* for such Stock-in-hand.

Your Petitioners humbly apprehend, That no other Linnens, under the Name of Striped or Chequer'd Linnens, were intended to be charged with the aforesaid Duties, than Colour'd Striped Linnens and Colour'd Chequer'd Linnens; and not any of the Goods which We desire to be explain'd, as not included in the said Charge. And Your Petitioners conceive the said Duties on Colour'd, Striped, and Chequer'd Linnens were design'd to prevent the Consumption thereof, in Prejudice to the Duties on *Callicoes Printed and Painted* here.

And that if the said 15 *l. per Cent.* should be chargeable on the Goods above-desir'd to be explain'd, It would not only obstruct the Exportation of the *Woollen Manufactures* of this Kingdom, with which the said Goods are purchased Abroad, But come near to an utter Discouragement of Importing the said Goods for the future; Which, by laying so many Duties as will amount to 37 *l. per Cent.* must necessarily lessen the Custom charged thereon.

Upon Application to the last *Parliament* for Relief in the Premises, This House inserted a Clause in the Bill for encouraging the *Tobacco Trade*: Which Bill not passing the *Honourable House of Lords* that *Parliament*, Your Petitioners again apply to this *Honourable House* to be relieved.

Therefore Your Petitioners most humbly pray This *Honourable House* will please to relieve them in the Premises, either by Explaining the said *Act* of *Parliament* in Respect to the said 15 *l. per Cent.* claimed on the above Goods on Importation, and half thereof on Stock-in-hand, or in such Manner to this *Honourable House* shall seem meet.

THE
CASE
OF THE
Importers of LINNEN;
DRAPERS, and PACKERS.

64
Great Britain
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[1]
T H E
C A S E
O F T H E
C R E D I T O R S *of the Office of* O R D N A N C E.

S E V E R A L of them being *Founders, Carpenters, Bricklayers, Masons, Smiths,* and other Artificers, were Employed (by Contract, with the Office of Ordnance, in the Reign of King *Charles the II. of Blessed Memory*) in Building and Repairing the several Forts, Castles, and Fortified Places of this Kingdom; *viz. the Tower, Berwick, Plymouth, Dartmouth, Hull, Newcastle, Guernsey, Woolwich, Sheerness, Tilbury, and Portsmouth:* And Others of them being Merchants, did Supply the said Office with Guns, Powder, Shot, and other Necessary Stores for Sea and Land Service: And some Others, for the said Service, did Lend and Advance to the said Office several Sums of Money; for all which there remains Due to them the Sum of 97722*l.* 19*s.* 8*d.* $\frac{1}{4}$. for which Sum they have Certificates, Bills, or Debentures, made out at the said Office.

The said Creditors applied themselves for Relief, by Petition, to the Honourable H O U S E O F C O M M O N S, the 17th of *January, 1710,* being the First Session of the last Parliament, when the General Provision was made for the Debts and Deficiencies by the *South-Sea Act*; and their Petition was Received, and Referr'd to the Committee appointed to Examine and State the Publick Debts of the Navy, and other Publick Offices, for which no Provision is made by Parliament.

7 Feb. 1710.

Mr. Foley, from the said Committee, made the following Report, *viz.*

‘ The Committee heard several of the Petitioners, and some of the Officers of the Ordnance thereupon: The Petitioners Alledg’d, that the Sum of 97722*l.* 19*s.* 8*d.* $\frac{1}{4}$. mentioned in the Petition is Due to them; and that they have Debentures for the greatest Part of it: That for want of Payment they and their Families have Suffer’d much.

‘ That the Officers of the Ordnance acquainted the Committee, That none of the present Officers were in the Office, when this Debt is said to be Contracted; They own that they found in the Office an Old Book, wherein this Debt is mentioned, which begins in 1673, and ends in 1679.

‘ That in 1682, this Debt was laid before King *Charles the II.* in Council, and Referr’d to the then Commissioners of the Treasury; but that no Provision was ever made for Satisfying the same, or any part of it Paid, either in that Reign or since.

‘ That upon a Reference from Her Present M A J E S T Y, the Board of Ordnance did the 24th of *January, 1708.* make the following Report.

“ *May it Please Your M A J E S T Y,*

“ **I** N Obedience to Your M A J E S T Y’s Commands, signified by Mr. Secretary *Harley’s* Letter of the 21st of *December* last; we have Examined into the Allegations of the Annex’d Petition of *Adam Browne* and Others; and find by the Books in this Office, that there was a Debt Contracted in King *Charles the II.’s* Time, for Stores Deliver’d, and Services Perform’d, to the last of *June, 1679.* Amounting to 97722*l.* 19*s.* 8*d.* $\frac{1}{4}$. We believe the Debt to be very Just, and that a great many Families have Suffer’d for want of its being Paid; but tho’ several Applications (as we are inform’d) have been made in King *Charles’s* Time, and in the Succeeding Reigns; yet no Consideration has hitherto been had of it: And how reasonable it may be when this Office lies under a Debt of near 200000*l.* Contracted in this Present War; We humbly submit to Your M A J E S T Y’s better Judgment.

‘ That the Committee cannot find that any Notice hath been taken by the Parliament of this Debt.

‘ And that for a great many Years this Debt hath not been Stated in the Estimates deliver’d to Parliament.

This Report having been thus made, and the Committee for the Supply soon after Voting (among other Sums) a Sum, to satisfy the Debt Due from the Office of Ordnance: The Creditors concern’d in this Debt, did well hope, that their said Debt was included in that Sum.

And they did apprehend, they were included in the Provision made by the Act, for Erecting the *South-Sea Company*, which they thought themselves Confirm’d in, by the Clause Fol. 422. Wherein the Officers of Her M A J E S T Y’s Office of Ordnance, are required to Cause a True and Exact Account to be made up, and deliver’d to the Lord High-Treasurer, of all the several and respective Sums due from that Office to the 25th Day of *March, 1711,* inclusive; (without mentioning from what Time to Commence) for which Certificates, or Debentures Payable in Course, were or should be made forth.

And

Fol. 423.

And the said Act having Provided, That all Persons Intitled to any Bills or Debentures, Payable in Course out of Her MAJESTY's several Offices, of the Navy, *Vitallising*, *Transport* or *Ordnance*, which were Dated or made Received in those respective Offices, on or before the 25th Day of *March*, 1711. (without any mention from what Time to Commence) should be admitted into the Joint-Stock of the *South-Sea Company*, and become Members thereof, in Proportion to the Sum they should be so Intitled to.

But when the said Creditors would have tender'd their said Debentures, to be Subscribed into the said Company, they were (to their great Grief and Surprize) inform'd, that they could not be Admitted, by reason they were not Included in the Sum of 154324 *l.* 15 *s.* 8 *d.* $\frac{1}{4}$. Computed in the said Act, to be the Debt of the said Office; nor in the Account which the Officers of the said Office of Ordnance, had, in Pursuance of the said Act, deliver'd to the Lord-Treasurer, of the Debt Due from the said Office.

Now in Regard of the Justice of the said Debt, and Misery of the said Creditors, who are above Five Hundred Families, and many of them being now in Prison, from the Disappointment of the Due Receipt of that their Just Debt: And that the Property of the said Certificates, Bills, and Debentures is still Vested in themselves (the First Contractors) or their Executors, except One Hundred Pounds: And That those Forts and Places of Strength, ever since the Building, Repairing and Fortifying the same, have been, and still are a Security to the Royal Navy, and also a Defence against Foreign Enemies. And that several of the Stores for which they make their Application, viz. Brass and Iron Guns, Shot, small Arms, and other such like unperishable Habilliments of War (though long since supplied) are yet remaining in Her Majesty's Garrisons, and reckoned as part of the Publick Stores of the Kingdom, and all the said Works manifestly prove for the Service and Benefit of the Nation: And that a Debt of the Navy (on the Second Register-Book in Course) of equal Standing with the said Creditors, and being for Pensions, Half-Pay, Rewards, Salaries, Free Gifts, &c. is Provided for by the said Act.

Fol. 421.

*THE said CREDITORS of the Office of Ordnance
do most Humbly Hope, Their said Just Debt will no
longer Remain Unprovided for.*

THE
CASE
OF THE
CREDITORS
OF THE
Office of ORDNANCE.

Reasons Humbly Proposed to the Honourable House of Commons, for Laying a Duty upon East-India Silks, &c. Exported into Her Majesty's Dominions; and that no Drawback be allow'd upon Callicoes, Muslins, &c. when Exported to America and Ireland.

Grand Jury
Finding that your Honourable Committee have under their Consideration the Drawbacks upon *East-India* Manufactures, I thought it a convenient time to lay before you the Hardships our Manufacturers labour under.

I. That very great Quantities of *East-India* Silks, and Silks mixt with Cotten, &c. are bought cheap at the *East-India-House*, even at little more than half the Price your poor Manufacturers can make them for: These Goods are Exported into all Her Majesty's Dominions Custom-free, by which they can Under-sell us in all those Markets; whilst your poor Manufacturers, that depend on the same Markets, pay great Excise and Custom for their Tobacco, Beer, Soap, Candles, Leather, &c. also above Fifteen *per Cent.* Duty upon their Thrown and Raw Silks, &c. For Remedy whereof, I humbly propose, for the Benefit of the Treasury, and Relief of your poor Manufacturers, That a very high Duty be laid upon all the Wrought Silks, Bengalls, and Stuffs mixt with Silk, Herba, or Cotten, &c. of the Growth and Manufacture of *Persia, China, Turkey, or East-India*, and upon all Callicoes, printed, painted, stained, or dyed there, that shall hereafter be Exported to any of Her Majesty's Dominions.

II. That there are great Quantities of Callicoes, Muslins, &c. Exported into *America and Ireland*, the Drawback of which is above Fifty *per Cent.* Also Chequer'd and Strip'd Linens, *Italian and Dutch* Silks, &c. the Drawback of which is above Twenty *per Cent.* For Remedy hereof, I humbly propose, That no Drawback be allowed to the Woven Imported Goods, when Exported into any of Her Majesty's Dominions. For it seems Unreasonable, that we should hire the Merchants to send the Woven Goods of Foreign Nations into our Dominions, by allowing them a Drawback, whilst our own Subjects of *London, Norwich, Canterbury, Coventry, Bristol, &c.* can furnish all these Markets, to the great Advantage of the Nation, and save a great Sum from going out of the Treasury.

III. That there are very great Quantities of these Goods, for which a Drawback is paid, Exported to *Holland, Flanders, Spain, Portugal, Germany*, and many other Places. But then it may be objected, That the *Dutch, &c.* will serve our Plantations and *Ireland*: To prevent this, there are Persons ready to propose an easie Method, when the Honourable Committee shall command, neither Chargeable to the Government, nor Troublesome to the Merchant which this Mischief will be effectually prevented.

Which is, with all Submission, Recommended to the Honourable Committee, by a Lover of the Manufacture.

REASONS

FOR

Laying a Duty upon *East-India* Silks, &c. Exported;
and that no Drawback be
allow'd upon Callicoes,
Muslins, &c.

REASONS

HUMBLY OFFERED

TO THE

PARLIAMENT Assembled,

For Building a Mould or Harbour in Whitland Bay, at the Lands-End in Cornwall, Situate betwixt the North and South Channels: And also, For Erecting a Light-House on the Por-De-Nac Point, near the said Bay.

By RALPH MICHELL, Engineer.

ALTHOUGH the Reasons, already Printed by Henry Jones Esq; are really True, and Matter of Fact, yet I humbly crave Leave to offer some Further and Fresh Instances for the Necessity thereof.

That all Easterly Winds force Ships into Scilly, from both Channels, which might put into Whitland Bay, were there a Fort and Harbour to receive them, where they might be supplied with all sorts of Provisions at Reasonable Rates, and give an Account every Post to their Owners of all their Affairs: But in Scilly they may be starved, neither can they give any Account to their Owners, there being no Passage from thence by Easterly Winds, which occasions many unnecessary Insurances.

Example, That on the First of January last, after a long and tedious Stay at Scilly, till almost starved, a Fleet of about One Hundred and Twenty Sail, got out from thence, whom the *Hastings, Dolphin, Hector, Loo, and Coventry*, left the Day before, and run for Ireland to Revictual, being almost starved; and had not Two Dutch West-India Merchants convey'd them towards Plymouth, a great many of them had been lost: For, on January the Second, a French Privateer of Thirty Guns came up with them, Taking a small West-India Man off of Loo, and after Attackt the Two Dutch Merchants, Killing the Two Captains, with Three Men, and several Wounded, and took Two other Vessels in sight of the Hills of Loo, and so directed off; whereas, had that Fleet been in Whitland Bay, the Convoys need not to have left them for want of Provisions.

January 16. At Night the Colchester Man of War from the West-Indies, but last from Ireland, was Cast away in Whitland Bay, about One Hundred and Seventy Men drowned: Also, another Ship drove round Cape Cornwall, with Bayl Goods, was Cast away nigh Padstow, most of the Men lost.

January 21. The Dorrel Galley, with Tallow from Ireland, was drove round Cape Cornwall, and Cast away near St. Ives, and most of the Men lost.

February 2. A Ship of Plymouth, of about Two Hundred Tuns, with Rum and Sugar, was taken in Whitland Bay, by a French Privateer; the Men got into Sennen Cave, in the said Bay, lamenting the want of a Harbour there.

Two others coming from the North, by a Fire made on Cape Cornwall, prevented their coming forward; but it's feared One or Both are taken, the said Privateer being seen to come up near them.

Another fought a French Privateer two Hours within the Lizzard, but at last was taken; and it's feared, more are lost there, being Seven in Company, several Guns having been heard off Land.

About Ten Weeks since, a West-India Man, worth Thirty Thousand Pound, was Chased a League to the Westward of the Long Ships, and so round Cape Cornwall, and taken between the said Cape and St. Ives.

About the same time, Four Boats from Scilly were taken by a French Privateer, who told them, That off there he had Two Prizes, worth Forty Thousand Pound; which Privateer kept One of their Boats, and sent the Men on Shoar in the other Three.

In May last, the Bemboe Galley, Capt. Hews Commander, of Forty Nine Men, lost Forty Three; The Concord, Capt. Young Commander, Twenty Five Men, lost One; The Reward, Capt. Bennet Commander, Twenty Five Men, lost Eighteen: These past close the Land's-End in the Night, and, for want of a Light-House there, were Wrack'd, West the Lizzard, ere the Morning, being Richly Laden from Smyrna, Gallipoli and Barbary.

Near the same time, the George Gally Capt. Nall Commander, Twenty One Men, Laden with Gums and Ostrich Feathers, was Chased from the Seven Stones round the Lands End, and Cast away between it and Mounts-Bay, which might easily have been preserv'd in Whitland-Bay, had the proposed Mould been made there.

Note, That French Privateers, as it now is, make a Harbour of it; and by Anchoring there, take our Ships both Out and Homeward Bound, Lying between the Land, and our Cruizers, who seldom Cruise within Two or Three Leagues of the Land.

Farther *Note,* That the Exorbitant Price of Coals from Milford, almost to Portsmouth, is Occasioned by the long Voyages and Hazards round the Lands-End, for want of a Harbour and Cruizers there; so that both Buyer and Seller, are Infinite Losers thereby; the extraordinary Charge far exceeding all the Taxes.

Now this Place ought to be a Harbour and Safeguard for our Selves, and not our Enemies.

Farther, That Admiral Aylmer and his Squadron, Anchored in Whitland-Bay some Days and Nights, sent a Packet on Shoar, and then Sailed for Corke.

Note, The Rock, where this Mould or Harbour is intended, is Twelve Acres at the least: The Mould when made, Thirty Acres and more, and Four Fatham Deep at low Water, which will Receive some Hundreds of Shipping; besides, it will not Exceed the Summ of Thirty Thousand Pounds, as propos'd by Mr. Jones. Also Vessels may come into this Harbour with all Winds, the like not in others.

Farther *Note,* That the Nation is well Satisfied of the Usefulness of this Place. The Eminent Merchants, and Commanders of Ships, belonging to Twelve Cities and Sea-Port Towns, having already Subscribed to Mr. Jones's Reasons in these Words.

We under Written do Certifie, That the making a Mould in Whitland-Bay, as above Propos'd, would in our Opinions, highly tend to the Safety of Ships and Marriners, and thereby prove no small Encouragement to Trade and Navigation.

Many more Reasons might be shewn, but I think one of the abovementioned Losses, if well bestowed, might make it a Safe Harbour, to the unspeakable Advantage of these Kingdoms and all its ALLIES.

HOW Beneficial and Useful a Light-House on the Por-De-Nac Point, (joining South of the Lands-End) would be to Navigation, I leave to all Judicious Men: And, in my own Thoughts, no Place in the Kingdom is, or can be, of that Advantage as one there. For,

I. It's commonly the first Land made on our Coast, from all Western Parts.

II. It lies between the North and South Seas.

III. It is 3 Leagues N. E. and by N. of the Wolfe, (a dangerous Rock) and 8 Leagues E. N. E. of Scilly.

IV. The Light on it will be seen off the Lizzard in the South Sea, and off Cape Cornwall in the North Sea, even to the Bay of St. Ives.

V. The late Fleet from the West-Indies; the Coventry and Cumberland Run to Milford, the rest to Plymouth and Portsmouth, for want of a Light-House there.

VI. How easie it is to Mistake the North for the South, or the South for the North Channel; when that one Point, nay half a Point of the Compass, carries a Ship into either; This being the only Place that Commends or Directs to either Channel.

Note, This must be a Double Light; then all Ships that makes the Lands-End-Light, by being the least North or South of it, must perfectly well know themselves to be, as the Light bears, either in the North or South Channel; so may in good Season, Tack as they are Bound, or Weather permit.

And it likewise prevents the Danger of the Seven Stones, Three Stone Oar, Breson, Long-Ships, Kettles-bottom, Sharks Fin, Runner Stone, Wolfe and Lizzard, which Rocks or Places, very often prove Fatal to such Shipping as miss the Light of Scilly.

Ralph Michell's
REASONS
For Making A
Harbour

I N

Whitsand - Bay,
At the-Lands End.



To the Right Honourable the House of
LORDS, and the Honourable the
House of COMMONS, in this
present Parliament Assembled.

The Humble PETITION of the *Serjeants, Corporals, and Others*,
belonging to the Regiment Commended by Brigadier BOR,
sheweth;

THAT Your Petitioners have considerable Arrears of Subsistence
and Cloathing; also many Sums of their own Money borrow'd
from the Pay-Master, after the Rate of Five Shillings *per* Pound;
besides several other Contingent Charges and Deductions, as fol-
loweth, *viz.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>q.</i>		
To a Serjeant - - - - -	02	:	06	:	00, $\frac{3}{4}$	
To a Corporal and Drummer -	01	:	14	:	02, $\frac{1}{2}$	
To a Centinel - - - - -	01	:	08	:	03, $\frac{1}{4}$	
	<hr/>				} <i>per Ann.</i>	
To 48 Serjeants for Eleven Years, Six Months, and a half, which amounts to - - - - -	1271	:	06	:		00, 0
To 48 Corporals for <i>Ditto</i> .	943	:	09	:		00, 0
To 24 Drummers for <i>Ditto</i> .	471	:	14	:		06, 0
To 1080 Centinels - - - - -	17555	:	12	:	06, 0	

Total Sum 20242 : 02 : 00, 0

A great Part thereof appears by the several Accounts of Your Petitioners,
fairly Stated and Adjusted.

THE Commissioners appointed for Disbanding and Adjusting the Ac-
counts of the Marine Regiments, by the Instigations and Perswasions of
General *Wills*, and Brigadier *Bor*, imposed upon the Poor Petitioners; being
Irregular, Unjust, and most Tyrannical Impositions, *viz.* The Widows and
Dead-Bills not paid.

Your PETITIONERS therefore most humbly Beg of this
Honourable House, That You would please to Inspect into
Affair, in order to satisfie our Just Claims and De
And Your Petitioners (as bound) shall ever Pray &c

The Humble
P E T I T I O N
OF THE

Serjeants, Corporals, and
Others, belonging to the
Regiment Commanded by
Brigadier *B O R*.

PROPOSALS

Humbly offered to the Consideration

OF THE

Honourable *House of COMMONS,*

FOR THE

More effectual preventing the Exportation of WOOLL
out of *Great-Britain and Ireland.*

- A** **T**HAT no Wooll be lodged within five Miles (or what other distance may be thought proper) of the Sea, only by the Manufacturer, and they to be under the Restrictions hereafter mentioned, but at that distance publick Warehouses to be built, and kept in good Repair, at the Charge of the Inhabitants of the respective Hundreds bordering on the same; for which they to be exempted from such Penalties they now lie under relating to Wooll being Run.
- B** The Government to appoint Persons to look after such Warehouses, and each of them to have Three different Locks, the Keys to be kept every Night by Three different Persons dwelling near the same, not Trading in Wooll; and that no Wooll be brought thither but between Sun and Sun.
- C** No Wooll to be Sold within the distance aforementioned of the Sea, but at a common Market.
- D** Wooll growing in the Isle of *Wight*, and other adjacent Isles, when sheered or pulled off of the Skins, to be kept about the middle of the Isles until it's to be brought off, but then not to be removed without an Officer to see it as far from the Sea as one of the said Warehouses.
- E** No Wooll to be brought down any small Rivers nearer then Miles of the Sea, and in larger Rivers at proper Places to be appointed by Justices of the Peace; at all which Places Posts to be erected, signifying the utmost that Wooll must be brought down by Water, and the like, if thought proper, in all Roads leading down to the Sea.
- F** All Wooll pack'd up to be limited to three certain Sizes, *viz.* Whole, Half and Quarter Packs, the Whole Pack to contain, &c. and so for the rest; and if find Wooll Pack'd otherwise, the Owner or Packer to forfeit for every Pound besides the Wooll so pack'd.
- G** All Manufacturers dwelling within Miles of the Sea, to Register what Wooll they have, and to have none brought them but what shall be taken an Account of by a publick Warehouse-keeper (as to the Weight and Number of Packs) who shall Mark every Pack with such a Mark as may be appointed, and the Manufactures shall Register the same within Hours after Received it, at the same Office where they first Register'd their Wooll; and all Goods by them made to be weighed, and, at proper times, the Wooll and Yarn left to be weighed, and the weight of the Goods made added, allowing what may be thought reasonable for waste out of every Todd, and then, if find any wanting, they to forfeit, as others, for Running of Wooll.

- H** No Wooll to be Salt Waterborn in *England* and *Wales*, but from *Southampton* to the Isles of *Guernsey*, &c. and from *Rye* in *Suffex* to the City of *Exeter*, and from the adjacent Isles to the main Land.
- I** And that no Wooll be carried to any Port in *England* and *Ireland*, but the Packs to be first Marked by a Warehouse-keeper, and sent between Sun and Sun, and the Persons going with such Wooll to have no other Weapon but one long Whip.
- K** No Ships having Wooll on board to go out of any Port without a Convoy of Sloops, the Masters of which to have Account how many Packs every Ship has on board, and deliver the same to the proper Officer of the Ports where Unlade, who shall cut half of the aforesaid Mark away.
- L** And that Sloops do lie below *Gravesend*, to search all suspected Boats and Vessels for Wooll, and the same at the Mouth of other large Rivers, and not to be removed until relieved by others.
- M** And to encourage Persons to discover all Offences against this Act, they to have for every Pound of Wooll discovered and seized, paid them by the Government, if the Offenders be Convicted, and the Penalty on the Offenders to be paid to the Queen; and likewise the Prosecution to be at the Charge of the Queen, but if not found Guilty, the Charge to be the Prosecutors.
- N** The Offenders when taken, to be tryed at the next Quarter Sessions, without any lett or hindrance, and for the City of *London*, at the next Sessions held at the *Old-Bailey*.
- O** All Wooll seized by Vertue of this Act to be for the use of the Queen, but the seizer to have no more than Two thirds of the Value, if the Offenders are not under Prosecution.
- P** All Persons making Resistance, when taken, to suffer some further Punishment then other Offenders, and to give a Reward as well as Pardon for any such Offender (that is not the Owner) to discover his Accomplices; and the same Reward, &c. for any one that has been concerned with others in Running of Wooll.
- Q** And all Persons deterring or threatening others from Prosecuting this Act, to forfeit, &c.

P R O P O S A L S

F O R T H E

More effectual preventing

T H E

Exportation of W O O L L.

By Ephraim Parker.

Some OBSERVATIONS, shewing, wherein there are some Deficiencies in the BILL now depending, for Prevention of Running of WOOL; humbly offered to the Consideration of the Honourable House of Commons, by Richard Carter and Peter Elers.

BY the Bill all Persons are to Register their Number of *Fleeces* Yearly, either with the *Custom-House* or *Excise-Officers*, according to the place where the Person Liveth, and where the Sheep are Sheared; but no mention is made, either of *Stock of Wool in Hand*, or the *Weight of the Fleeces*.

I. Therefore with humble submission, That all Persons shou'd be obliged in *May*, 1714. and so Yearly, to make an Entry with the proper Officers of all *Wool*, *Woolfels*, *Mortlings*, *Shorlings*, *Tarn* made of *Wool*, &c. Which said Time being immediately before the Shearing comes on, will facilitate to make good each Person's Account from time to time, what shall be by them Registered.

II. That, as a Check to the Growers of *Wool*, All Persons who keep *Sheep* and *Lambs*, may be obliged, just before the Shearing approaches, to make an Entry with the proper Officers of the Number of them, that so they may agree with the *Fleeces*; and likewise the *Weight* of such *Fleeces* be asserted; which would be a Regular and Easy way for the Officers, whose *Permits* are made use of, to Detect any Fraud by Undue Registering of *Wool*, and report the same to the *Commissioners*, at the General Office in *London*.

III. That *Felmongers* may be obliged to Register their *Wool*, commonly called *Head Wool*, Monthly, on Oath to be made before a Justice of Peace, which Oath made and Certificate thereof given by the Justice of the Peace, to be *Gratis*.

IV. That *Wool* Yearly Increased and Sheared, is part of it to be Entered and Registered with the *Custom-House Officers* in *Sea-port Towns* and near the same; and all other Persons are to Enter and Register their *Wool* with the *Officer of Excise* in every *Market-Town*. With humble Submission these Officers having two different Masters to render their Accounts unto; *Quare* whether it will not be found very Difficult and Impracticable to Settle the Yearly Accounts with Persons whose Hands all *Wool* will come through; or render an Account to the Legislative Power when required thereunto, by Reason such Accounts must of Consequence derive from two main different Springs, the *Custom-House* and *Excise Office*, that will interfere one with the other.

V. That if it is not advisable to have a *New-Commission* at *London* for both the said Officers, as well *Custom-House* as *Excise*, for them to render an Account of all their Proceedings; *Quare*, Whether it be not worthy the Consideration of this Honourable House, that the *Commissioners of Excise* be the properest Persons to transact the whole Affair of Registering *Wool*, &c. There being *Excise-Officers* in every *Sea-port Town* in *England*, as well as in every *Market-Town*, so that the *Excise-Office* will answer the whole, without Interfering with the *Custom-House Officers*.

VI. That for all *Wool* allowed to be Shipt off to *Guernsey*, *Jersey*, &c. All *Permits* to run in the Name of the Buyer of the *Wool*, to be Shipt Aboard Ship and Commander for Place; the Commander to give a Receipt, acknowledge the *Number*, *Marks* and *Quantity* of such *Wool* to be delivered at place to Person; and both Owner of the *Wool* and Commander, to enter into Bonds of Security
fr

for Delivery of such *Wool*, according to such Receipt; and upon such Security given, the *Custom-House* and *Excise Officers* jointly to Indorse on the back of the *Permit* a Testification of such Shipping, and such Security taken; to discharge the Seller of the *Wool* for so much of his Stock to be legally Sold.

VII. And for a further Prevention of *Running of Wool*, *Quere*, If a Clause that the *Wool* allowed to be sent to *Guernsey*, *Jersey* and other Islands, should not be Limited to the same Quantity as was in the Reign of King *Charles the Second*. And that *Wool* likewise to be Conveyed to those Islands, be sent by particular Ships, appointed by the Government for that purpose, and no other. And that for these two Reasons —

1st. It would prevent any *Wool* going to *France*, under the pretence of going to *Guernsey*, *Jersey*, &c. by making out *Cocquets* for those Islands, when in truth that same *Wool* is never design'd for those Islands; And such Commanders of Vessels, being employed by the Government, will take off all manner of foul Practices, in that particular.

2^d. That it is well known that the *Wool* Yearly Shipt off to those Islands, hath not been one third part of it wrought up there by their Poor, but otherwise Clandestinely carried away to other Parts.

And here it may be very well worth the Legislative Consideration, if the same Method might not be used in *Ireland*, by having a select Number of Ships at proper *Sea-port Towns*, and those only employed by the Government to Transport such *Wool* and *Tarn* from time to time, as shall be sent from thence to *Great Britain*; And likewise the same Method used in *North Britain* for what *Wool* and *Tarn* shall be sent to *South Britain*, and all *Water-born Wool* and *Tarn* whatsoever, to be sent from one place to another to take the same Precaution.

And whereas the Effects of this great Undertaking will Center in the Issue of *Regular Accounts* kept at some *General Office*, that by such a Method and able Accomptants, it must produce at the end of the Year what Quantities of *Wool*, &c. have been consumed, and made up, into *Woollen Manufactures*, with the Remainder of *Wool*, &c. left unwrought; whereby it will, before the next Shearing-time appear, whether any Misapplication has been made use of contrary to the Law, and by whom, that so the Delinquent may be called to answer the same; which said Audit to be made every Year, and settled before the time of the next Shearing approacheth, and fairly entered in Books, for View of this *Honourable House*.

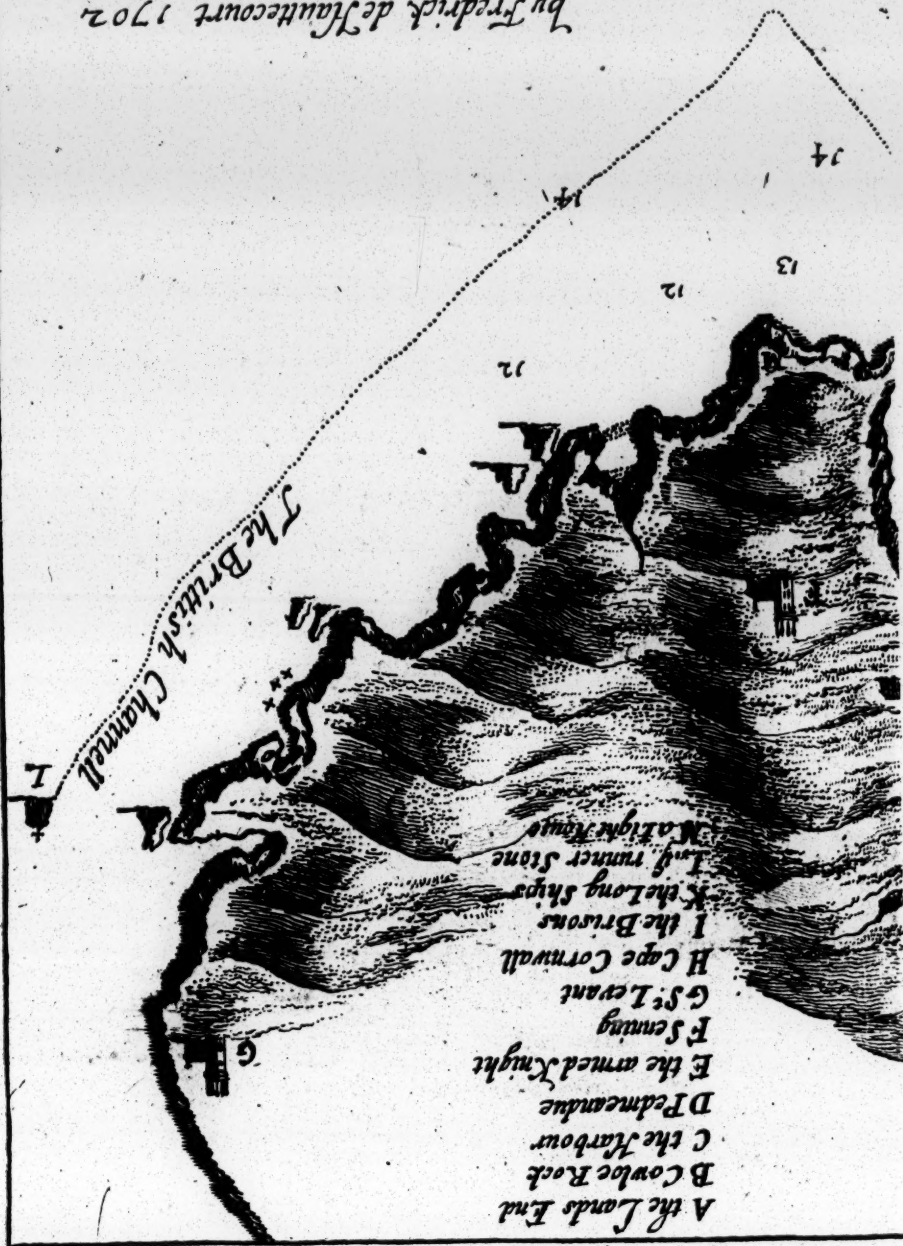
SOME

OBSERVATIONS

CONCERNING

The Prevention of the Running of
WOOL; humbly offered to the
Consideration of the Honour-
able House of Commons, by
RICHARD CARTER and
PETER ELLERS.

by Fredrick de Stautecourt 1702



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The Prevention of the Running of
WOOL; humbly offered to the
Consideration of the Honour-
able House of Commons, by
RICHARD CARTER and
PETER ELLERS.

R E A S O N S

H U M B L Y O F F E R E D

By H E N R Y J O N E S, Esq;

For Building a Mould or Harbour in *Whitsand-Bay* at the *Lands-End*, in *Cornwall*.

WITHIN this Bay is a very good Road, gradually Shoaling from Thirty Fathom to Four, shelter'd by a Rock (containing about Ten Acres) called *Cowloe*, which naturally bends very well for a Harbour, and at a convenient distance from the Shoar, along which are lofty Hills; 'twixt this *Cowloe* and the Shoar, there is a Gap from whence the Mother-Sea comes in, the Wind at *W. S. West* makes foul Weather, the Tide riseth Eighteen Foot; the Gap at Spring-Tides is often dry, when People frequently Walk over to *Cowloe-Rock*, yet even then within Shelter of the said *Cowloe*, and the Shoar, is about Four Fathom at Low-Water, with good Ground, which Space (being Thirty Acres at least) may contain above One hundred Sail of Ships: It's call'd (in *Cornish*) *Pullan da*, *Anglice*, A good Poole.

II. This Place will need little or no Timber, there being abundance of the best and largest loose Rocks or Moore-Stones, for filling up, and building from the Shoar unto *Cowloe-Rock*, and for raising it to a full and sufficient Height: The Charge of all which serviceable Work will not exceed *Thirty Thousand Pounds*, and then Ships of great Burthen and Force may always come in and go out with Safety.

III. Its Scituation will always render it very useful to this, and all other Nations, in Alliance with us, and consequently a Scourge to our Enemies, this being the only Place that divides the *North* and *South-Channels*, and the best Place for large and good Anchorage 'twixt *Falmouth* and *Milford*; for Ships Anchoring in *Whitsand-Bay* may (in the worst of Weather) get into the said *Mould*, or in half an Hour's time run into either Channel, no other Place having the like Advantage.

IV. This Place will for the future prevent our Merchant Ships being taken by our Enemies, as (I frequently wrote to the Admiralty) they were, during all the last War, this being a Place of Safety for them, and where our Cruisers of 'twixt Fifty and Sixty Guns may, on all Occasions, have recourse to: Hence I gave the Admiralty a List of about Forty Sail of Ships retaken, and a greater Number preserv'd by a Fishing-Boat; for which Service the Admiralty-Board order'd the Boat's-Master a Commission and a Medal.

V. This Place is nighest, and most convenient for Supplying the Islands of *Scilly*, with all things necessary for Her Majesty's Garrison there.

VI. Ships do with Easterly Winds frequently Anchor in *Whitsand-Bay*, when they cannot reach any Port in *England* besides *Scilly*, or must weather out all Storms, and (in War) hazard being taken by the Enemy.

VII. There is such a various Set of Tides at the *Lands-End*, and at *Scilly*, (where both Channels meet) that few (though otherwise able Sailors) are acquainted with; for the Tide sets Nine Hours Northward from the *Lands-End*, and but Three Hours Southward; so that good Artists (homeward bound) steering their direct Course for the *South-Channel*, and keeping due Reckoning, are notwithstanding halled into the *North-Channel*, and lost: And this is also the Cause that so many Ships are taken short in *Mount's-Bay*, and within the *Lizard*, and lost; and which also was Sir *Cloudeley Shovel's* Misfortune at *Scilly*, and the loss of the *Colchester* Man of War in *Whitsand-Bay*.

VIII. At (and somewhat Northward of) the *Lands-End*, there are many Tynn, Copper, Iron, and other Mineral-Loads, all which have (more or less) of the *Loadstone* in them; whose Courses (are *S. E.* and *N. W.*) and cause Variation of Compasses accordingly: For as Ships draw nigher the *Lands-End*, their Compasses tend more to a *Western* Variation, which deceives the skilfullest Navigators by drawing them into the *North-Channel* instead of the *South*: And to confirm the Truth of this, The Fishermen at the *Lands-End* having good Compasses when first bought, by keeping them some small time in their Houses, become false, or good for little, did they not give Allowance for the same; and this also causes Shipwrecks in both Channels.

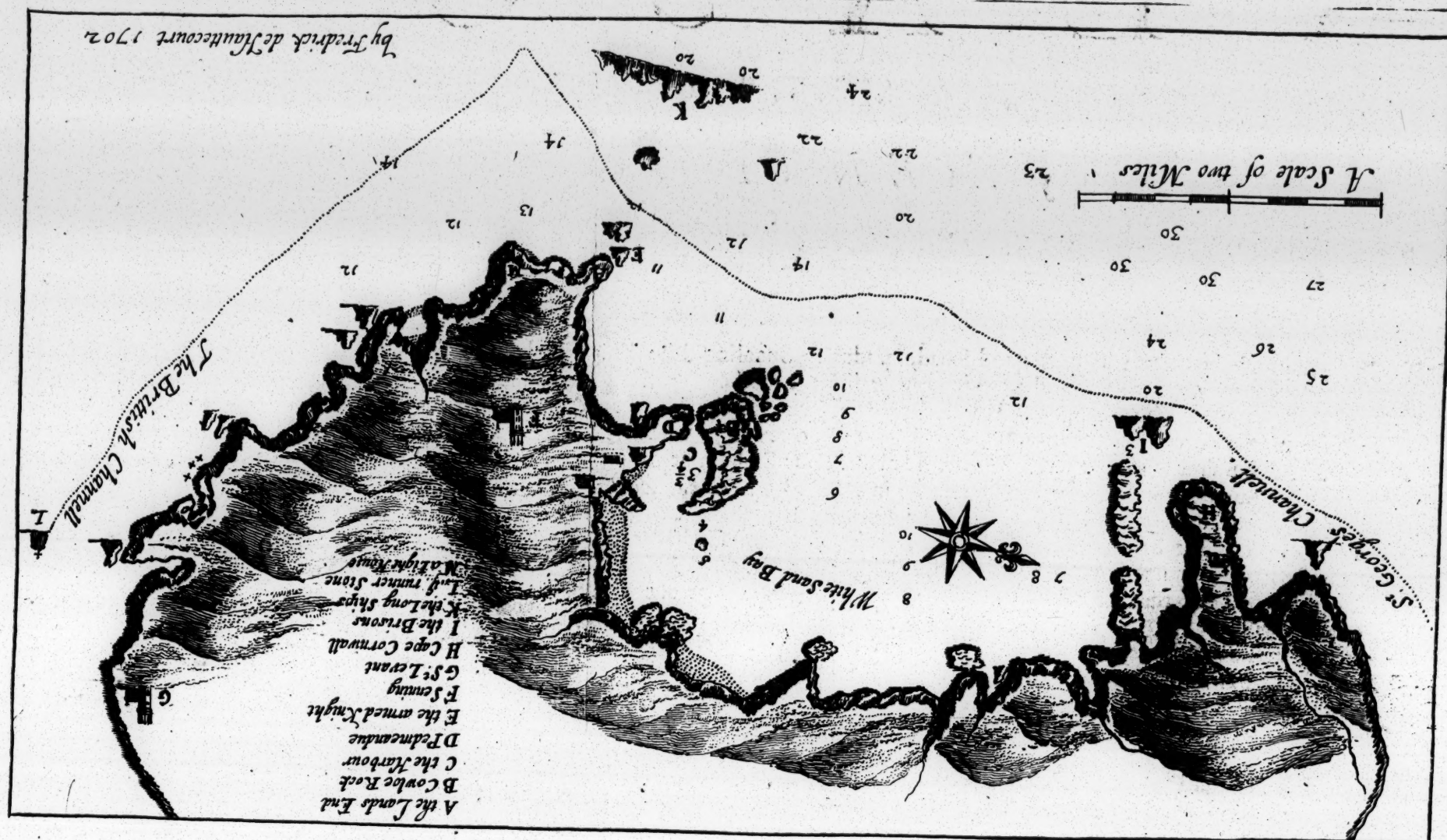
IX. 'Tis observable, That when the Wind is *East* on Land, 'tis always (Off the *Lands-End*) *E. S. East* in the *South-Channel*, and *E. N. East* in the *North-Channel*; by which it happens, Ships from the Northward cannot, so far, weather the *Lands-End*, as to get into the *South-Channel*, neither can those from the *South* get into the *North-Channel*. And on the 9th of *December*, 1693. by a Storm, shifting from *East* to *Westward*, One hundred Sail (under Convoy of the *Prince of Orange* and *Quaker-Ketch*) being Off the *Lands-End*, were, for want of Harbour in *Whitsand-Bay*, driven back into the *North-Channel*, and above Seventy Sail of them wreck'd. And I believe the Ships lost by Storms, and taken by the Enemies, during the last War, (for want of such an Harbour) came little short, in number, with those lost on all the Coast of *England* besides.

X. By all the above 'tis likewise further manifest, That even in Times of Peace there hath not, nor can be secure Trading 'twixt *St. George's* and the *British* Channels, or any where to the *Westward* of the *Lands-End*; without this proposed *Mould*; and that for want of it, there hath been, and may be more Ships lost (yearly, besides the Mens lives) than three times the Value of what would Erect the same. Hence the *Liverpoole* Merchants have (during all the last War) possessed those who trade from *London*, that their Ships might come safer *North* about *Ireland*, unload their Effects at *Liverpoole*, and be at charge of Land-Carriage from thence to *London*, rather than run the Hazard of having their Ships taken by the Enemy, or wreckt, by reason of the great Dangers of *Scilly*, the *Lands-End*, *Mount's-Bay*, *Lizard*, and all the *South-Channel* to *London*, which hath proved an unspeakable Detriment to all the Trading Sea-Port Towns that border upon the *British-Channel*: Which Evils would effectually be prevented, were there an Harbour and Light-House at the *Lands-End* of *England*.

XI. 'Tis apparent the *Thirty Thousand Pounds* proposed will not be Money lost or hazarded, but entirely applied in employing of poor Labourers: And Three Years time may finish the proposed *Mould* or Harbour. And further, That the most Eminent Merchants and Commanders of Ships belonging to *London*, *Exon*, *Topsham*, *Dartmouth*, *Plymouth*, *Looe*, *Fowey*, *Penzance*, *St. Ives*, *Barcaple*, *Bideford*, *Bridgewater*, *Bristol*, *Trinity-House* of *Hull*, and Ports adjacent, are well satisfied, by certifying their Opinions, That an Harbour in *Whitsand-Bay* would be an Advantage to *England*, and greatly encourage Trade and Navigation.

XII. The Charges of Building the said *Mould* will be very small and easy to the Publick, but the Benefit being greater than I can express, refer to Mr. *Haute-court* and Mr. *Mitchill*, Engineers, who with Mr. *Tuttell*, his late Majesty's Hydrographer, did Survey the *Western-Coasts*, and approved of this Place, as the most convenient Receptracle for Shipping, being the In and Out-let of the Kingdom, and opposite to *Brest*.

May it therefore please Our Gracious Sovereign the Queen, and Her Parliament, to provide for the Improvement of this Place at the *Lands-End*; which will very much encrease our Strength and Riches, as it hath France and Holland by the Improvement of their Harbours.



REASONS FOR

Making an *Harbour* at the
Lands-End, *Cornwall*.

John Doe the Commons of Great Britain
in Parliament assembled

The humble petition of Henry Jones Esq.

Sheweth

That your Petitioner in a former Parliament after a true & full
within his Petition together with Certificate from the most eminent merchants & Com-
moners of Shippers of London Bristol & other Ports Dartmouth Plymouth
Loe Fowey Penzance & other Ports Brixwater & Trinity House & other Ports
adjacent & likewise from Gentlemen Livings near the Land's End & other Ports
from the ports of Plymouth Bideford & other Ports setting forth the great Benefit
that would accrue to her Majesty & her Trading Subjects by making an
Harbour in Whistland Bay near the Land's End in Cornwall was then
Referred to a Committee And your Petitioner's allegations & petition being
Examined; It was Reported to the House upon the 7th of February 1701 And

Resolved that a Harbour to be made in Whistland Bay near the Land's End
in Cornwall will be of great Benefit for the preservation of shipping & a proper station for
British during the war: And a publick Advantage to the Kingdom.

Resolved that a Light-house at Brixwater Point near the Land's End will
be of great use to direct sailors to distinguish the North or South Channel and to prevent
ships from being cast away upon those coasts.

That accordingly an Address was presented to her Majesty And four
of the Trinity-members were sent down to Survey & estimate the Charges of making an
Harbour & Light-house there: who differing among themselves some of them
Reported it would cost a Greater sum than will Really effect the same: As was
petitioned by his authors to every paragraph of your said Report plainly made appear.

But the Parliament being soon after prorogued and your Petitioner for want of health
unable to attend this House the same hath been delayed.

And since by the Blessing of God an Honourable Peace is set on foot:

Your Petitioner humbly prays the premises with Benefit
of Trade there by & the national Advantages thereof
may be taken into consideration by this Honourable House.

And your Petitioner shall ever pray &c.

The Petition of
Henry Jones Esq for
Masters an. Various in
British and by at the same
in British and

72
65.

T H E
C A S E

O F

Richard, Lord Bellew.



HAT *John Bermingham* late of *Dunfert* in the County of *Kiláare*, Esq; dy'd seized in Fee of the Mannors of *Dunfert* and *Mylerstowne* of the Value of 1400 ~~l.~~ and without Issue by Reason whereof the same descended to *Mary* and *Ann Bermingham* his Sisters and Coheirs.

That the said *Mary* Married with *John* late Lord *Bellew*, and had Issue by him, the present Lord *Bellew*.

That the said *Mary* late Lady *Bellew's* Moiety of the said Estate is come to the Lord *Bellew*.

That the said *Ann* (afterwads Lady *Clanmaleer*) did from Lord *Bellew's* Infancy constanly declare that she would settle her Moiety of the said Estate on him after her own Decease without Issue.

That the said Lady *Clanmaleer* having in the Year 1695 received an Account from the said Lord *Bellew*, that he was on a Treaty of Marriage with the Countess of *Newbrugh*, and that he met with some Difficulties therein for want of an assurance of her Estate, she the said Lady *Clanmaleer* did on or about the Month of *June* 1695, Write a Letter to the said *Bellew*, wherein she promised that she would in consideration of the said Marriage settle her said Estate on the said Lord *Bellew*, and the Issue of the said Marriage.

That the said Lord *Bellew* did shew the said Letter to the late Earl of *Cardigen*, and the late Lord *Brudnall*, Grandfather and Father of the said Countess of *Newbrugh*.

That the said Lords *Cardigen* and *Brudnall* having been advised by their Council, that the said Letter did lay an Obligation on the Lady *Clanmaleer* to perform the said Promise the said Marriage was thereupon concluded, and the said Lord *Bellew* got 13000 *l.* Portion.

That

That the said Lady *Clanmaleer* in *March* 1703, did settle her Estate for Life on her self, Remainder to the said Lord *Bellew* for Life, Remainder to the Second Son of the said Lord *Bellew* in Tail Male with Remainder over.

Which the said Lady *Clanmaleer* on the said Lord *Bellew*'s becoming a Protestant cancelled or suppressed, and has since made a Lease of 31 Years of her said Estate dated in the Year 1705, at a very inconsiderable Rent to *Thomas Nugent*, Esq; commonly called Earl of *Westmeath*, and also acknowledged a Statute Staple of 12000 *l.* and several Judgments of 24000 *l.* in the said Year to or in Trust for *Francis Bermingham* Eldest Son of (and now) Lord *Athunry*, then a Minor of about 14 Years of Age and settley the Reversion of the said Estate on the said *Francis* his Marrying one of the Daughters of the said *Thomas Nugent* of about 12 Years of Age.

That the said Lease, Statute, Staple and Judgment were acknowledged and perfected with intent to Elude the Operation of the Statute against the Growth of Popery and to deprive him (being then a Protestant) of the said Estate, all which has been done not only against the Promise contained in the said Letter, but also against another express Promise of the said Lady *Clanmaleer* in a written Paper Dictated by her self and dated the 29th *August* 1705.

That the said *Francis Bermingham*, now Lord *Athunry*, pretended to be a Purchaser in consideration of his said Marriage, without notice of the said Letter or said Settlement; and Lord *Bellew* having been advised by his Council, that his best way to be secured of the said Estate would be by Act of Parliament.

He accordingly set forth the aforesaid Matters in *August* 1707, in a Petition to the Honourable House of Commons in *Ireland*, praying leave to bring in Heads of a Bill for that purpose; and having by undeniable Proofs made out all the Allegations in his said Petition, and the Committee to which the same was referred having reported the same to the House, ordered Heads of a Bill to be brought in accordingly.

Whereupon the said Lady *Clanmaleer*, the ARCH-BISHOPS OF *DUBLIN* AND *TUAM* (GUARDIANS of the said then *Francis Bermingham*, now Lord *Athunry*) and Lord *Westmeath* on behalf of his Daughter (Wife of the said Lord *Athunry*) and the said Lord *Bellew*, came to an Agreement that the said Estate should be settled on the said Lady *Clanmaleer* for Life, Remainder to Lord *Bellew* in Tail Male, subject to the Payment of 3000 *l.* secured on Mortgage to the said *Francis Bermingham* (now Lord *Athunry*) and he having paid or secured to be paid 2000 *l.* more at the Lady *Clanmaleer*'s Request, for the Portion of the Lady *Westmeath*, Sister of the said Lady *Bellew*, did by several Instruments under their respective Hands and Seals, consent that the said Agreement should be confirmed by Act of Parliament, for repealing whereof the said *Francis Bermingham* (now Lord *Athunry*) intends to petition.

Note, That on the Petitions of the said Lord *Athunry*, and others, against the said Bill, the same being referred to the Now Lord Chancellor of *Great Britain* (then Attorney General) and to Sir *James Mountague*, then Solicitor

tor General, who after Three Solemn Hearings, reported to Her Majesty, That they had consulted the then Lord Chancellor *Cowper* and Lord Chief Justice *Holt*, who agreed with them, that there was no Cause for making any Amendment or Alteration in the said Bill; after which the said Bill being consider'd by the Queen in Council, notwithstanding a Petition of the said Lord *Athunry* and others, and all imaginable Oppositions against the same, it was transmitted into *Ireland*, and passed both Houses of Parliament there, after several full and solemn Debates on hearing Lord *Athunry's* Council

Lady *Clanmaleer* dy'd about a Year after passing the said Act; and Lord *Bellew*, soon after, in *June* 1710, paid the said *Francis Bermingham* 3400 *l.* being Principal and Interest of the said Sum provided for him by the said Act; and for raising the same the said Lord *Bellew* sold part of his ancient Estate, in lieu whereof he has been since obliged to convey part of the said Lady *Clanmaleer's* Estate, settled on him by the said Act, on the said Countess of *Newbrugh* his Wife, and on his Issue by her.

Note also, Other part of the Estate of the said Lady *Clanmaleer* has been since sold to several Purchasers, by virtue of an Act of Parliament passed in *Ireland*, and subsequent to the Act now desired to be repealed.

WHEREFORE it is hoped that after such valuable Considerations of Marriage and Money, and so many and such solemn Hearings and Debates, References and Reports in *England* and *Ireland*, and after such Sales and Settlement, this Honourable House will not give leave to bring in a Bill to repeal the said Acts.

Lord BELLEW's

CASE.

56 to 18



T H E
C A S E

Of the Right HONOURABLE

FRANCIS Lord BERMINGHAM,
Baron of *Athunry*, in the King-
dom of *Ireland*.

JOHN BERMINGHAM, Esq; being Seized in Fee of the Mannors of *Dunfiert*, and *Moylerstowne*. in the County of *Kildare*, in the said Kingdom of *Ireland*, Dyed without Issue, whereby the said Mannors Descended to his Two Sisters, *Mary* and *Anne Bermingham*, as his Heirs at Law.

The said *Mary* Married Sir *John Bellem*, afterwards Lord *Bellem*, and had Issue by him, *Walter*, late Lord *Bellem*, *Richard* now Lord *Bellem*, and *Margaret* late Countess of *Westmeath*, the said *Anne* Married *Maximilian* Lord Viscount *Clanmaleere*, by whom she had no Issue.

The said *Anne*, Lady *Clanmaleere*, having no Children, and being desirous to Advance one of the Daughters of her said Niece, the Countess of *Westmeath*, and also having an Inclination to Support the Honour, and Inlarge the Estate and Fortune of the House of *Athunry*, from which she Descended, there was a Treaty concluded concerning a Marriage to be had between the said *Francis* Lord *Athunry*, and one of the Daughters of the said Countess of *Westmeath*, who were then by reason of their Minority incapable of Contracting Matrimony, and a Marriage-Portion of 8000 l. was agreed to be Secured and paid by the said Lady *Clanmaleere*; and *Edward* late Lord *Athunry*, the said *Francis*'s Father, in Consideration thereof, Agreed to Settle his Estate on the said *Francis* and the Issue of that Marriage, and Secure a Maintenance for them, and a Joynture for the said Intended Wife. Febr. 1704.

The said Lady *Clanmaleere*, made a Will in writing, Reciting a Lease for 1000 Years by her made the 16th of *March*. 1703. to *John Woogan* and *Robert Daly* of her Moiety of the said Mannors, under the yearly Rent of a Pepper-Corn, in Trust for the Person, or Persons to whom the said Lady *Clanmaleere* should Limit the same by her Last Will, and by the said Will Devised the Benefit of the said Lease to the said *Francis Bermingham*, Esq; now Lord *Athunry*, subject to the Debts, Legacies, and Incumbrances therein Charged; he marrying one of the Daughters of her said Niece, the said Countess of *Westmeath*. 15th May, 1705.

6th Mar. 1705. In pursuance of the said former Agreement, Indented Articles were Entered into between the said Lady *Clanmaleere* and *Thomas Nugent*, Earl of *Westmeath*, in behalf of the Lady *Mary* his Eldest Daughter, of the one Part, and the said *Edward*, late Lord Baron of *Athunry*, in behalf of the said *Francis Bermingham*, Esq; now Lord Baron of *Athunry*, on the other Part; whereby the said Lady *Clanmaleere*, Covenanted and Agreed to Secure 8000 l. as Marriage-Portion with the said Lady *Mary*, to be paid in one intire Payment, with the Interest thereof, from, and Immediately after the Death of the said Lady *Clanmaleere*: And also Covenanted, That she would not by any Subsequent Will or Deed, Revoke any of the Bequests by her made by her said Will to the said *Francis*, now Lord *Athunry*. And the said *Edward*, late Lord *Athunry*, did thereby Covenant to Settle all his Estate upon the said *Francis*, and the Issue of the said Intended Marriage, and at the same time, the said Lady *Clanmaleere* for the better Securing the said Portion, and Performance of Covenants, did, Acknowledge a *Statue Staple* for 12000 l. unto the said Earl of *Westmeath*, and Two Judgments for 12000 l. each.

11th July, 1706. The said Lady *Clanmaleere* made her Last Will and Testament in writing, and Devised the said Term of a Thousand Years unto the said *Francis Bermingham*, and the Issue of the said Marriage, according to her said former Agreement and Covenant.

2d August, 1706. *Edward*, late Lord *Athunry*, in Performance of the said Marriage-Articles, and in Consideration of the Provision made by the said Lady *Clanmaleere*, made a Settlement of his whole Estate, and appointed Part thereof for the present Maintenance of the said *Francis* and *Mary*, and Secured a Joynture for the said *Mary*, in Case she should happen to Out live the said *Francis*; and Limited an Use for Life to himself Remainder to the said *Francis* for Life, with Remainders in Tail successively to the several Sons of that Marriage. The said Lord *Athunry*, in further Performance of the said Articles, did, in and by the said Deed of Settlement, Assign a Debt of 3000 l. to the said Earl of *Westmeath*, upon this special Trust, That the same should be applyed to the Payment of some Incumbrances that affected the Estate by him Settled as aforesaid, and thereupon the said Marriage took Effect.

The said *Richard*, now Lord *Bellem*, finding that the said Lady *Clanmaleere*, intended thus to Advance the Family of *Athunry*; And he the said Lord *Bellem* fancying for some time that she would Settle her Estate and Fortune on him, tho' he was neither Heir at Law, nor otherwise Intitled to the same: Exhibited his Bill in the *High-Court of Chancery* in *Ireland*, for a Specifick Performance of a pretended Promise to that purpose on his Inter-Marriage with the Countess of *Newburgh*; but the said Lord *Bellem* finding that he could have no Relief by such Suit, applyed to the Parliament of *Ireland* for Redress, suggesting the said pretended Promise, and that the Provisions herein before mentioned to have been made for the said Lord *Athunry* by the said Lady *Clanmaleere*, were made to Elude the *Act for the preventing the Growth of Popery*, and that what determin'd the said Lady in his Prejudice, was his having then lately become a Protestant, and on those untrue Suggestions, it was resolved by the *House of Commons* in *Ireland*, that Heads of a Bill should be brought in for the Relief of the said Lord *Bellem*: Whereas, it was, and is manifest that the said Treaty and Agreement concerning the said Marriage, and the said Will in 1705. were Precedent to his having become a Protestant, and the said Securities for the said Portion, were no way contrary to the said *Act* against the further Growth of *Popery*; and also, that at the time of, Voteing the said Bill, the said *Francis Bermingham*, now Lord *Athunry*, was a Protestant in the Guardianship of the Arch-Bishops of *Dublin* and *Tuum*, and then under the Age of 15 Years.

Whereupon the said Lady *Clanmaleere*, and the said Earl of *Westmeath*, seeing with what Heat and Violence things were carryed in the *House of Commons* in *Ireland*, and that such partiality was shown in the Examination of the matter before a Committee of that House, That some Letters of the Lord *Bellem*s to the

the said Lady *Clanmaleere*, which Demonstrated that no such Promise as aforesaid had been made, and which were produced on behalf of the said Lady were Torn by some of the Members of the said Committee, with a Design to Suppress them, and Apprehending that no Provision would be made for the Young Married Couple, and not knowing but their Violence might have carried them so far as to Strip her wholly of her said Estate, came to some Agreement with the said Lord *Bellev*, without the Privy of *Edward* late Lord *Athunry*, or *Francis* now Lord *Athunry*, and in pursuance to such Agreement, An Act of Parliament passed in *Ireland*, by which the said Lady *Clanmaleere*'s Estate was Settled on the said Lord *Bellev* and his Children, after the said Ladies Death, Subject only to the Payment of 3000 *l.* for the Portion of the said *Francis*, now Lord *Athunry* with his said Wife, in Lieu of 8000 *l.* secured to him as aforesaid, and the said 3000 *l.* was by the said Act made Liable to all the Debts that should Affect the said Estate after the said Ladys Death, so that by possibilty, the said *Francis* shoud not have a Farthing out of the said Estate, and the Securities for the said 8000 *l.* were Annulled, and the said Lease for a Thousand Years Devised to the said *Francis*, as aforesaid, was also set aside; But *Edward* late Lord *Athunry*, and the said *Francis* his Son, were so far from coming into any such Agreement, that they Opposed the Passing thereof before the Privy-Council in *Ireland*, and sent Agents into this Kingdom to Oppose the same before Her Majesty in her Council, and upon the Return thereof into *Ireland*, the said *Francis* now Lord *Athunry* tho' then a Minor, did personally endeavour to obstruct the Passing thereof before the Lords of *Ireland*.

The said *Richard* Lord *Bellev*, having reason to fear that so great a Violation of the Common Rules of Property, and so gross an Injustice done to a Minor, might afterwards be Redressed by the Legislature, and designing to secure himself against any such future Redress, procured another Act of Parliament in *Ireland* after the Death of the said *Edward*, late Lord *Athunry*, and during the Minority of the said *Francis*, now Lord *Athunry*, whereby Part of the said Estate lately belonging to the Lady *Clanmaleere*, was Vested in Certain Trustees to be Sold for Payment of Debts of the said *Richard*, Lord *Bellev*, and the Residue thereof, together with all other the Lands of the said Lord *Bellev*, were Vested in other Trustees for the Benefit of the said Lord *Bellev*'s Family 1709.

The said *Richard*, Lord *Bellev*, and the said Trustees mentioned in the said Act for Payment of the said Lord *Bellev*'s Debts, preferred a Bill against the said *Francis*, Lord *Athunry*, in the High-Court of Chancery, in *Ireland*, to Compel him to Receive the said 3000 *l.* provided for him by the said Act, in Lieu of the said 8000 *l.*, (so far the said *Francis* was from Receiving the same Voluntarily, least it should imply any Compliance or Assent to the said Act,) and thereupon, the said *Francis*, Lord *Athunry*, was during his Minority Compelled to Receive the same. 1710.

The said *Francis* Lord *Athunry*, being by the said Acts of Parliaments, Deprived of the Benefit of the said Marriage-Agreement, without any Reasonable Cause, is Necessitated to have Recourse to the Parliament of Great Britain for Relief, and humbly Hopes, That a Law *ex post facto*, Carried on after so Extraordinary a manner, to Set aside legal Securities in prejudice of a Minor, whose Estate and Interest ought to be carefully Preserved and Protected by all Courts, will be thought a Dangerous President, and fit to be Redressed by the Legislature, and the rather for that he is willing that so much of the said Estate as was Vested by the said last mentioned Act in Trustees to be Sold for Payment of Debts, and were sold accordingly may stand Good.

THE
C A S E
OF THE
Lord *Athunry*.

Statut. Staples, Judgments and
Leases, for Securing a Mar-
riage-Portion for a Minor,
made Void, and Annulled by
a Law *ex post facto*, made in
Ireland.



A N
A N S W E R
T O T H E
Printed Case of *Richard Lord Bellew*.

TH E Lord *Bellew* in his Case, insists upon four Alligations, thereby to Intitle himself to the Lady *Clanmaleere*'s Estate after her Death, viz.
That the Lady *Clanmaleere* by a Letter Written to the said Lord *Bellew*, upon his Inter-Marriage with the Countess of *Newburgh*, promis'd to Settle her Estate on him.

That in *March*, 1703. the said Lady *Clanmaleere* made a Settlement of her Estate 2d. on the said Lord *Bellew* for Life, after her own Decease, the Remainder to his Second Son in Tail.

That the Provisions made for the Lord *Athunry*, were not only in Elusion 3d. of the Act against the Growth of Popery, but likewise against another Promise of the said Lady *Clanmaleere*'s contained in a Written Paper dictated by her in *August*, 1705.

That the Act against which the said Lord *Athunry* prays Relief was obtained by 4th. Consent of his Guardians, and of the said Lady *Clanmaleere*, and the Earl of *Westmeath*.

That the said Lord *Bellew*, preferr'd a Bill in the High-Court of *Chancery* in *Ireland*, for a Specifick performance of the said Promise, contain'd in the said Letter, and pretended by his Bill, that the said Letter was in the Hands of his Six-Clerk, to be shewn to the said Lady *Clanmaleere*, to Enable her to Answer the said Bill; but that the same was never in the said Six Clerk's Hands, and after several Demands made to have a sight thereof. The said Lord *Bellew* pretended that the said Letter was lost or mislaid, and the same was never after produced, and the said Lady *Clanmaleere* put in her Answer, and denied to have writ any such Letter, or made any such promise; and thereupon preferred a Cross-Bill against the said Lord *Bellew*, and made his Grace the Duke of *Shrewsbury* the Countess of *Westmoreland*, and the Lord *Dunbar* Parties who were the next Relations to the Countess of *Newburgh*, then living, and Privy to the said Treaty of Marriage of the said Lord *Bellew*, and Acting therein, who in their several Answers denied ever to have heard of any such Letter or Promise, and did not believe it to be Part of the Consideration of the said Marriage, and a Letter from the said Lord *Bellew*, to the said Lady *Clanmaleere*, and produced on her behalf which proved no such Promise to have been made, was torn by the Committee of the Commons in *Ireland*.

The said Lady *Clanmaleere*, in her said Answer, deny'd to have made any such Settlement, and the only Evidence, the said Lord *Bellew*, produc'd to prove the same, was one *Mulhallon*, an obscure Person of an unfair Character, who pretended he had seen the said Settlement by Chance in a Basket, in the said Lady *Clanmaleere*'s Cloiset, and had a Curiosity to see the Limitations therein; and in his said Evidence, he said that by the Settlement, there was a Power of Revocation in the said Lady, and also a Power to Charge the said Estate with what Sums she pleas'd; so that if such a Settlement were made (as in Truth there was none) it would not stand in the Lord *Athunry*'s way.

As

To the Third. At the time of the passing the said Act, the said Lord *Athunry*, was a Protestant Minor, of the Age of Fourteen Years, in the Guardianship of the Arch-Bishops of *Dublin*, and *Tuam*, and if any Provisions made for the said Lord *Athunry*, are contrary to the Act to prevent the Growth of Popery (which is deny'd) the said Lord *Bellew*, was not Intitul'd to any Benefit thereby, the said Lady *Clanmaleere's* Heirs at Law, the Protestant Daughters, of his Elder Brother *Walter*, late Lord *Bellew*, being the only Persons Intitul'd thereto.

And as to the Promise, 'tis Confess'd that a certain Persons came from the Lord *Bellew* to the Lady *Clanmaleere*, and told her, that if she did not Settle her Estate on the Lord *Bellew*, that he wou'd become a Protestant; but not being able to prevail, he said, it wou'd be Necessary to writ something to the Lord *Bellew*, to hinder him from that Resolution, which she refus'd to do; thereupon the said Person writ a Promise, as from Lady *Clanmaleere*, that she wou'd Settle her Estate on him, which the said Lady refus'd to Sign. And whether such a Paper, on such a Consideration can be of any validity in this Case, is submitted too this honourable House.

To the Fourth. The Guardians of the Lord *Athunry*, were by the said Lord *Bellew*, and the Lord *Westmeath*, drawn into the said Agreement, upon a false Representation, that the late Lord *Athunry*, who made a Settlement in Consideration of the Marriage of his Son, the now Lord *Athunry*, assented thereunto; but when the said Guardians were undeceiv'd, and that neither the late, nor present Lord *Athunry* were Privy, or Assenting, but the contrary: The said Guardians strenuously oppos'd the passing the said Act, and as to the Assent of the Lady *Clanmaleere*, and Lord *Westmeath*, the said Lord *Athunry*, humbly Conceives they had no Right, or Power to take away from a Protestant Minor, what they before Settled on him in the most Solemn manner, and on the most valuable and equitable Considerations.

The said Lord Athunry, having (as he humbly Conceives) given sufficient Answers to any Colour of Right, the said Lord Bellew can Pretend to, humbly hopes that this Honourable House will give him an Opportunity of Proving his said several Answers and Alligations, and the unparalel'd Injury done him by the said Irish Act.

AN
ANSWER
TO THE
Case of Richard Lord
Bellew.

bill read 1 April 1714

516. m. 18
68

REASONS

HUMBLY OFFER'D

To the Honourable HOUSE OF COMMONS, by the
Merchants and Traders in Tobacco, with Relation to
the BILL, now depending, for Lessening the Draw-
back, on Tobacco Exported to Ireland.

BY the BILL it's design'd, That as the Duty of $3d \frac{1}{2}$. per lb. on Tobacco, which expired in *Ireland* the 25th of *March* last, an Equivalent shou'd be laid here, 'till Re-granted there; which if duly Consider'd will be a heavy Burden on the Merchants of *Great Britain*, and consequently a farther Means of Destroying the almost Ruin'd *Virginia-Trade*, which is reduc'd to a Deplorable Condition: Many Merchants that had considerable Stocks being Ruin'd by it: The Reason as we humbly Conceive, must be attributed to the Excessive Duties Chargeable on Tobacco in *Great Britain* and *Ireland*, which can be made appear is the principal Cause; so that consequently if the Duties did not exceed $3d$. per lb. near as much more Tobacco wou'd be Expended, which wou'd advance the Revenue, and be a Considerable Advantage to the *Virginia-Trade*, which is chiefly Carried on and Supported by the several Manufactures of this Kingdom.

THE Duties here being so high, obliges the Merchant to Export his Tobacco, to any Market he can think of, thereby to Discharge his Bonds, given for Securing the Duties at Importation, which have been to the Ruin of many; tho' thereby the Markets Abroad have been Supplied at an under Rate: In particular *Ireland*, where Tobacco for some Years past, have been Cheaper then in this Kingdom, tho' the Duty was more There then Here; besides the Half Subsidy of $\frac{1}{2}d$ per lb. left in Her MAJESTY's Hand, and also Freight, Commission, &c. which demonstrates the Difficulties the Merchants Labour under; so that if this ACT shou'd Pass for taking $3d$. per lb. from the Draw-back, then the Common and only Relief for Discharging Bonds by Debentures will be taken away, and very much Lessen Exportation, to the great Prejudice of Trade; also it wou'd Encourage Unfair Traders to Run Tobacco in *Ireland*, (as is frequently done) to the great Prejudice of Her MAJESTY's Revenue, and the Fair Trader.

FARTHER it so happens, That several Merchants have Ship'd off Tobacco in *February* and *March* last, which was detain'd by contrary Winds, 'till about the End of *March*, Part of the said Tobacco's was Bought up by Persons Residing in *Ireland*, and by Commis- sion for them at divers Prices, from $2d \frac{3}{4}$. to $3d \frac{1}{2}$. per lb. and the Debenture to remain to the Seller, to enable the Discharge of his Bonds as usual; the said Buyers being gone, and the Tobacco in *Ireland*, they having a full Discharge for the Payment: If there shou'd be any Diminution of the Debenture, it will deprive the Seller of so much Money, and he will be left Remediless for the same; which Loss will be more then the Tobacco Sold for.

THEY have likewise Sold Tobacco which is Ship'd and sent to *Ireland*, at certain Prices Deliver'd there, the Buyer to Pay *Irish* Duties and Freight, which being arriv'd there, it cannot be expected that the Buyers will Pay any more than the First Agreement; neither can it be thought the Law of *Ireland* will oblige him to it.

SOME of the Tobacco so Ship'd, was on their own Accounts, and order'd to be Sold at the Mast; that is, on Board Ship, the Buyers to Pay all Duty; and no doubt the said Tobacco is Sold accordingly, at a Price not much exceeding what before was given in *England*.

THEREFORE it is humbly hop'd, That this BILL will not a Law, which will be so great a Discouragement to the Tobacco and lay such unavoidable Hardships on those who ' on or before the 24th of *March* last.

R E A S O N S

Humbly Offer'd,

*In Relation to the B I L L now before
the House, for detaining Part of the
Draw-back of Tobacco's, Exported
to Ireland.*

The CASE of the Merchants, and Planters, Trading to, and Residing in, Virginia, and Maryland.

THE high Custom of Six Pence and one Third of a Penny p^r Pound, on Tobacco for the Home Consumption, has by many Years Experience been found much more than it can bear; the Planters and Merchants ~~Adventurers having often lost Fifty p^r Cent. and sometimes more than their~~ Capital, the Produce not being sufficient to defray the Custom, Freight, and other Charges; so that without some timely Relief, this Trade must inevitably be lost to *Great Britain*.

As the Distance of our *British* Plantations is an Improvement of our Navigation, so of Necessity it becomes a Charge on our Tobacco, and has given great Encouragement to the Planting of vast Quantities of that Commodity in *Holland, Germany, &c.* to the Improvement of their Lands and Benefit of the Proprietors, who supply many Parts of *Europe*, to the Decay of our Plantations, Trade, and Navigation; and unless such Encouragement be given to the Exporters of Tobacco, as may enable them to render it very cheap at Foreign Markets, and thereby in great measure prevent the Planting in *Europe*, this beneficial Trade will in a few Years be irretrievably lost, and our Nation oblig'd to pay Specie for Linnen, and all other the Manufactures of *Holland, Germany, Sweedland, &c.* that us'd to be purchas'd in those Parts with the Proceed of our Plantation Tobacco.

In order to render our *American* Tobacco cheap in Foreign Markets, it's humbly propos'd, that on Exportation the remaining Moiety of the old Subsidy being one Half-penny p^r Pound, be drawn back in like manner as all the other Duties now are.

The present Customs on Tobacco are, viz.

The Old Subsidy always paid down	1 d. p^r Pound.
Additional Duty payable at Nine Months	1
Impost Duty payable at Eighteen Months	3
New Subsidy payable at Three Months	1
Additional Subsidy payable at Nine Months	0 $\frac{1}{3}$

All the Duties amount to 6d. $\frac{1}{3}$ p^r Pound.

Tho' the Bonds given for the Duties aforesaid are payable at several times, yet it hath been the constant Practice ever since the Restoration, till of late Years, not to demand the Money for any of them, till the time allow'd by Law for Exportation expires. And it's therefore humbly hop'd it may be Enacted, That all Bonds for the several Duties on Tobacco be made payable at Eighteen Months from the Merchants Entry; for should they be prosecuted (as they have Reason to fear) for part of the Duties, at the End of Three, and Nine Months, it would unavoidably force all the Traders in Tobacco immediately to export the same, that their Debentures may be finish'd in time to discharge their Bonds without paying Interest thereon; this will make *Holland* the general Mart for our Tobacco, and by such hasty Exportations, Foreigners will reap the Benefit of our Plantations more effectually than if they were their own.

The Indulgence from the Legislature, in granting Eighteen Months time for Exportation, in lieu of Twelve formerly allow'd, we humbly conceive
was

was design'd in favour of our Plantations, that Foreign Markets might by Degrees be supply'd with our Tobacco, to the Advantage, and not Ruin of the Proprietors, who at present are necessitated to sell their Tobacco in *Holland* for less than the Freight and Custom.

The Discouragements of late Years have already ruin'd several considerable Merchants, oblig'd others to decline trading in Tobacco, and forc'd many of the Planters in *Virginia* and *Maryland* upon Manufactures, wherein they are already such Proficients, that several Counties make Shoes, Stockings, Hats, Linnen and Woollen, not only for their own, but for the Use of their Neighbours; others sow Corn, which hath been sent from the Plantations in great Quantities to several Parts of *Europe*, and Necessity will put them annually upon many Expedients to become less Dependant on this Kingdom.

To Conclude, The melancholy State of our Tobacco Plantations is such, that for several Years past, the Exports of our Woollen and all other Manufactures to *Virginia* and *Maryland*, are diminish'd, at least one half, the Traders thereto greatly impoverish'd, the Planters by Necessity falling into Manufactures, the Navigation of this Kingdom consequently lessen'd, and notwithstanding the several high Duties laid on Tobacco, the Revenue hath not been thereby augmented.

It's therefore humbly hop'd this Honourable House will not only lower the Duties on Tobacco for the Home, and Foreign Consumption, but give such other Relief in the Premises, as in their great Wisdom shall be found necessary.

The CASE of the
Merchants, and Planters,
Trading to, and Residing
in, *Virginia*, and *Maryland*.

Palmer (F.)
R.

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70.

PROPOSALS *Humbly Offered to the Honourable House of COMMONS, For the Effectual Tracing the Wool of this KINGDOM and IRELAND from the Sheeps Back until the same be Manufactured.*

- I. **T**hat an Account be taken of all Wool and all Yarn made of Wool in the Possession of all Farmers or Growers of Wool, Importers, Felmongers, Wool-staplers, Wool-Combers, Clothiers, and all other Persons Dealing in or Occupying of Wool (which Account may be taken with great Ease and Exactness by the Office or Officers of the Exsize.)
- II. That after such Account taken, no Farmer or Grower, Importer, Felmonger, &c. shall Sell any Wool, without first acquainting the Office or Officer of the Division wherein they live, before they presume to weigh off their Wool to the Buyers (as in the Cases of Soap and Candles) under the Penalty of — Which Office or Officer shall take a Receipt of the Buyer, in which the Buyer shall oblige him or herself to Manufacture the said Wool, and if the Buyer be not a Manufacturer that he will when he Sells, acquaint the Office or Officer of the Division wherein he dwells as abovesaid ; also that the Receipt be made Penal in — times the value of the Wool Bought, which Receipt shall be Transmitted by the Officer who takes it to the proper Office or Officer of that Division where the Buyer liveth, where it will lye good against him until that Office or Officer is fully satisfied, that, That Wool is Manufactured or Resold and a fresh Receipt taken, which shall discharge the Prior Receipt.
- III. That the Office or Officer taking such Receipt shall give the Buyer a Permit or Sufferance to carry his Wool to his habitation or any other place he desires within the Kingdom, to which place his receipt may be sent as abovesaid.
- IV. That for the ease and convenience of Persons Growing or Buying small quantities of Wool for their own use, and having not more than — Pounds in their Possession, shall not be accountable for or lyable to the Penalties.
- V. That all Wool found upon the Road, without a permit or sufferance shall be Forfited and — times the value of it.
- VI. That all Buyers not being Manufacturers, or of small reputation and living within — Miles of the Sea Coast shall be obliged to give some further security than their own, that they will Manufacture or Sell as abovesaid.
- VII. That the Manufacturer or other Person buying Wool by Letter of the Grower, Importer, Felmonger, Woolstapler, &c. shall send such Penal Receipt to the Seller, who shall give it to the proper Office or Officer, before he shall receive a Permit or Sufferance to send with the Wool, and to prevent counterfeit Receipts so sent, they may be Witnessed by the proper Office or Officer of the Division where the Buyer liveth, also a Penalty.
- VIII. That the Officer be obliged to call at all the Persons Houses above mentioned as oft as at the Malsters, Brewers, Tallow-chandlers, &c. (which will be but a small addition to his Business, they all lying in his way. And the time of Sheering happening in that part of the Year, when he hath very little to do in the Brewery, Malt, Candles,) &c. as well to take an account of, and make the Persons Chargeable with all new or increasing Stock as to take Receipts and grant Permits.
- IX. That the Officers be Obligated to make up their Accounts every — Months.
- X. Thus it will be traced to the Manufacturers (tho' it should pass thro' twenty Buyers Hands,) and when in their Hands we would charitably hope, that they would be better Friends to themselves and Country, than to send it away unwrought. But if there should be such Vipers amongst us, we are ready to propose a very plain and easy Method, by which it may be known whether they Manufacture all their Wool, or send any of it Clandestinely away, all which Methods being taken, with all Humble Submission, the so Noble intended Bill Resolved on by this Honorable House will have the desired Effect, for the last Buyer must either Manufacture, pay the Penalty, or run away with his Wool, in which last case, let him be made incapable of ever returning into the Kingdom.

PROPOSALS

For the Effectual Tracing the Wool of
this *Kingdom* and *Ireland*, from the
Sheeps Back until the same be Manu-
factured.

By FRANCIS PALMER.
THOMAS THWAITS.
THOMAS WILMOTE.

bill read 21 May 1714

77

REASONS *why the Bill to prevent the Growth of Schism, now depending before the Right Honourable the Peers of Great Britain in Parliament Assembled, should not be extended to Ireland.*

I. **T**HE Papists in *Ireland* are at least Eight, to one Protestant, (all Denominations included) by a Computation allowed in the late Irish House of Commons.

II. A very great Part of the Protestants in *Ireland* dissent from the Established Church.

III. The Dissenters in *Ireland* are a well-united Body of Protestants, inhabiting principally the Province of *Ulster*, where the Strength of the British Interest lies.

IV. *Ireland* is so near to *Scotland*, that many *Scots* Families do transport themselves with their Effects thither, which may in time strengthen exceedingly the British Interest, if the Lenity of the Government towards Protestant Dissenters be continued.

V. The Protestant Dissenters in *Ireland* have always been very Loyal and Dutiful Subjects; and they are, generally speaking, a Body of sober Christians.

VI. They are already very much discourag'd by the want of a *Legal Toleration*, which their Brethren in *England*, and those of the Episcopal Perswasion in *Scotland* do enjoy.

VII. They are equally with their Brethren of the Established Church expos'd to the merciless Rage of the Irish Papists, who in the Year 1641. murdered above Two Hundred Thousand Protestants, without any Regard to their Denominations.

VIII. There is not a single Instance of a *Jacobite* to be found amongst them; their Ministers, who are above one Hundred and fifty, have all taken the Oath of Abjuration, excepting three, two of whom neither preach, nor appear in Publick, the other is committed to Goal without Bail or Mainprize, and fined 500 £. They, likewise, prayed constantly for the Queen, and the Protestant Succession in the House of *Hanover*, and would have taken the aforesaid Oath, if instead of these Words, *as it stands limited by*, &c. the Words had been, *which is settled by*, &c.

IX. It does not appear adviseable by Persecution to oblige the Protestant Dissenters in *Ireland*, to remove into other Countries, now when the Emissaries of a Popish Pretender are Lifting and Transporting to *France* great Numbers of Irish Papists, promising *that they shall speedily return with their Master*; when, 'tis possible, the Tragedy of 1641 may be acted over again.

X. Their Sufferings and Services in the late Happy Revolution, when they made a glorious Stand against the Irish Papists and French Auxiliaries, the noble Defence of *Londonderry* and *Inniskillin*, in which they had so great a share, ought not so soon to be forgotten.

XI. Her Sacred Majesty has often Assured them of Her Royal Protection.

XII. It may hinder the Conversion of Irish Papists, if they see Protestants biting and devouring one another, and perceive the worst part of their Religion, *viz. Persecution for Conscience sake*, to prevail in the National Church.

1714

REASONS

WHY THE

BILL *to prevent the
Growth of Schism,*
should not be extended to *Ireland.*

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72.

The Case of the Thread-makers of Great Britain.

WHEREAS there is a Bill now depending before the Honourable the House of Commons, brought in under the Title of *An Explanation of an Act of Parliament to take off the Duty of unwrought Inckle*; which is no more than to take off the Duty of Whited Linen Yarn:

And whereas the making of Thread in *Great Britain*, being now become a very Considerable Manufacture, in which, both in the City of *London*, as well as other Parts of the Kingdom, many Thousands of People are imployed, and may be yet much more improved;

It is humbly desired, for the Incouragement of the *Thread-makers*, that such Duty as this Honourable House shall think meet, may be also taken off of Brown Linen Yarn imported into this Kingdom, which is wrought into Thread, and whited here, whereas unwrought Inckle is whitened beyond Sea; and should not the Duty be taken off Brown Linen Yarn, as well as Whited, it would be a great Discouragement to the Manufacturing of *Thread* in *Great Britain*, many Hundred of Families being imployed in Throwing, Whitening, and Making the said Manufacture.

It is therefore Humbly Desired, their Case may be Considered.

THE
CASE
OF THE
Thread-makers.

children, and children
or great grand children and
to qualify himself and
to his father and mother
from the BP
information, present or
past in connection with
the case or interest of
the family

The C A S E

O F

JOHN POWELL of London, Merchant;

WHO Originally Contributed l. 3,700, towards raising Two Millions for the Service of the Crown of England, and Settling the Trade to the East-Indies, when the Publick Funds were under great Discount.



HERE being Great Clamours and Complaints against the Old East-India Company, for their Oppressions as well as Monopoly of a Trade of that vast Extent, which includes so great a Part of the Globe, and might be made so very beneficial to the British Nation;

THE Parliament therefore did, in the Year 1698, think it the True Interest of England, to settle that Trade in a Free Regulated General Society; and by Act and Charter the whole Trade to the East-Indies was for ever given to such Persons, who should advance Two Millions for the Service of the Crown; to every Person, severally by Name, in proportion to his Contribution; which General Society was to have PERPETUAL SUCCESSION, and a Common Seal.

THAT the Petitioner did, upon Credit of the said Act and Charter, advance 3,700*l.* towards raising the said Two Millions, and was thereupon, with every other Contributor, incorporated into the said General Society for such Free Trade.

THAT the Persons who solicited most for a Regulated Free Trade, (being Managers of that Affair) were the very Men who contrary to their first Pretences (by Artful Means) drew all the Contributors (except the Old Company, and a very few separate Traders) into one Joint-Stock-Company again; very well knowing the many Opportunities there would be, to raise very great Estates to themselves, by being Directors and Managers of such a Stock.

THAT the Petitioner, not being drawn into the Joint-Stock-Company, traded separately, as the Act directs; and what Goods he did not export before Michaelmas-Day in one Year, he was allowed to Enter and Export after Michaelmas-Day in the next Year, (November being the General Time for Ships to load for the East-Indies) which the Company THEN THOUGHT was according to Law, and Equitable Right.

THAT after the Union of the two Companies, THEY THEN setting up Arbitrary Power, did absolutely refuse, to let the Petitioner trade, as the Act directs, for the Year from Michaelmas 1706 to Michaelmas 1707, on purpose to deter Merchants from being concerned with the Petitioner; lest they also should meet with Trouble from so powerful a Body.

THAT for four succeeding Years, viz. from Michaelmas 1707, to Michaelmas 1711, the Petitioner, to support his Right, did regularly enter his Goods for Trade, with the Company, and at the Custom-House, and paid the Queen's Customs, and had the Commissioners Cockets for Exportation; and did every thing that the Law directs. YET the said united Company threatened to seize Ships and Goods, if put on Board after Michaelmas-Day, altho' Legally Entred but few Days before; so that the Petitioner, to his very great Damage, has five Years Trade unexported, amounting to 18,500*l.* and this not only in Prejudi

of Her Majesties Customs, and Exportation of the Manufactory of Great Britain, but contrary to their former Custom, and the true Intent and Meaning of the said Act.

FOR it cannot be imagin'd, that the Parliament, who gave every Man that lent 100 l. a Right to Trade Yearly for that Value, *Intended* that he should be *Obliged* to buy a Ship every Year, at a vast Expence and Hazard, to send out that small Stock, which, according to the Company's Interpretation of the First Act (*since their Union*) he must do, or forfeit his Right of Trade for such Years he Omits.

AND it would be as inconsistent for the Company to say, *That* because the Petitioner's 8 l. per Cent. Annuity is to be received *Quarterly*, that if he doth not receive it at the *Quarter Day*, he shall forfeit that *Quarter's Annuity*; for by the Act both Trade and Annuity are of a Parallel Nature, and go on Hand in Hand together. BUT the true Intent and Meaning of the *Restriction*, as the Petitioner is advis'd, is, *That* no Person contributing 100 l. should so far account himself a Free Merchant, as to Trade at large for what he pleaseth, beyond the Bounds of his Contribution; BUT should be so far *restrained*, that in the whole Term of Years, he should not exceed in the *Whole* what he had Liberty *Annually* to Trade for; And doubtless the Petitioner has as much Right to Ship off Three Year's Trade together, as he should have to receive Three Years Annuity, if he Omitted receiving it before.

THAT about six Years since, the united Company obtained a longer Term of Years, before Notice of Redemption of that Trade upon their lending 1200,000 l. and the Petitioner did then, by his humble Petition to the Honourable House of Commons (before the Company would come up to advance near that Sum) offer to lend his Proportion of that or any Sum whatever, and on such Terms as the Parliament should think fit; and therefore humbly prayed that his Property and Right of Trade might be continued to him, as well as to the Company, according to the Act of Parliament on which he lent his Money; which Petition being referred to the Committee of the whole House for *Ways and Means*, brought the Company presently to a Submission to advance the said 1200,000 l.

THAT notwithstanding a Bill was brought in, with a Clause in it, that the Petitioner's 3,700 l. Stock should be taken from him, and given to the United Company, every 100 l. Stock for 100 l. being (even then) not above one Quarter Part of its Value. Upon which the Petitioner did again Petition the House, humbly praying, that for the Preservation of his Property he might be heard by Council or otherways touching his future Right to the said Trade, as well as the Company, he being ready and willing to advance his Proportion of the 1200,000 l. BUT WAS REFUSED, which very hard Usage he humbly hopes this Honourable House of Commons, who are the Guardians of the Peoples Properties, will take into their Consideration.

THAT the said United Company have, by an Advertisement affixed on the Exchange of London, and otherways, given Notice in Writing to the Petitioner, that they expect at Michaelmas next to have his Stock every 100 l. for 100 l. and so to foreclose him the past as well as future Right and Benefit of that Trade; Contrary to the Express Words, and in Manifest Breach of the First Act of Parliament on which he advanced his Money, by Virtue of which every Contributor by an indefeazable Right was for ever to have the Benefit of that Trade, Act. pag. 760, 761.

DETERMINABLE ONLY,

Upon Repayment by Parliament, of the said Sum of two Millions, unto the respective Subscribers and Contributors of the same, then and from thenceforth; as well the said Duties upon Salt, and Rock salt, as the said Duties upon Stampd Cellum, Parchment and paper, and also the said Yearly Fund Charged thereupon, and the said

said Annuities issuing out of the same, and the said Duties of five Pounds in the Hundred, for the said Imported Goods, and also all the Corporations to be Erected by or in pursuance of this Act, and the benefit of Trade hereby given, or intended to be given, to them, or any of them, shall absolutely Cease and Determine; any thing herein contained to the contrary notwithstanding. Act anno nono & decimo Willielmi III. Regis p. 780, 781.

That by the above *Clause*, as well as *Tenour* of the whole *Act*, it plainly appears, that no one Contributor should be paid off before all the rest; much less that any Contributor's Stock, after a Long and Hazardous War, should, in time of Peace, be taken from him without his Consent, and given to the Company (of a Younger Date) at a tenth part of its now real Value, Especially before the *two Millions* should be actually Repaid and Discharged, to every particular Proprietor his Proportion, and the several Duties, Fund, Annuities, 5 *l. per Cent.* and all Corporations Erected, and Benefit of Trade thereby given, should absolutely Cease and Determine.

Now since it is evident the *Petitioner* had an equal Right, in respect to *Duration*, as well as to *Determination*, with all the other Contributors; and having readily Complied with every thing required for the Preservation thereof; but never acted or neglected any thing that might forfeit the same; and inasmuch as the last Sessions but one, the Petitioner, proving all his Allegations, to the Satisfaction of the Honourable *House of Commons*, had leave for a *Bill* to be brought in for his Relief, which *Bill* being once Read, and order'd a second Reading (through the Artful Delays of the Company) had not time to Pass; And last Sessions, proving all his Allegations again, before a Committee of the Honourable *House of Commons*, through the Indisposition of the *Chairman*, at the end of the Sessions, the *Report* was not made.

*It is therefore Humbly hoped that the Honourable House of Commons will relieve the Petitioner, by restoring to him his Rightful Benefit of past and future Trade, he being ready (as he always was) to pay his full proportion of the said 1200,000*l.* and to allow Government Interest for the same, since the time the Company paid their Money.*

N O T E.

The Crown has or will receive upwards of 300,000 *l.* for Duties of Goods already Imported from the *East-Indies*, being the Returns of Goods Exported to *India* by the Separate Traders; besides the Customs paid on the said Goods, outwards. Out of which Duties the *Company* have about 50,000 *l.* paid them by the Crown, for the 5 *l. per Cent.*

C A S E

O F

JOHN POWELL, of *London*
Merchant, Concerning the *Op-*
pressions he Suffers by the Power of
the *United East-India Company.*

80

To the Honourable the KNIGHTS, CITIZENS,
and BURGESSES, *in Parliament Assembled;*

The Humble PETITION and REPRESENTATION
of the GENTLEMEN lately belonging to Her
MAJESTY'S Fourth Troop of HORSE-GUARDS,
late Commanded by His Grace the Duke of ARGYLE,
now by the Right Honourable the Earl of DON-
DONALD.

S H E W E T H,



THAT Your Petitioners have address'd Mr. SPEAKER for Redress of the *Abuses* and unjust *Stoppages* made out of their Subsistence by the Lord JOHN KER, First Lieutenant-Colonel of the said Troop.

THAT the said Lord JOHN KER did turn out several of Your Petitioners (tho' they never committed any Misdemeanour) only for the Lucre of One Hundred Pounds, which he had for each Gentleman's Post; and also violently took from them their Cloaths and Accoutrements, which they had paid for out of their Subsistence.

THAT there has been Fourteen Pence Half-penny *per* Day stopp'd from each Man in the whole Troop, for six Years successively, which has not yet (tho' demanded) been accompted for, or any Satisfaction made for the same.

THAT Your Petitioners further represent, That the said Lord JOHN KER, has several Times been guilty of defrauding the Government by False Musters, even to Thirty Eight Men in a Muster, which has been sworn before the Honourable the Commissioners of *Publick Accompts*.

THAT the said Lord JOHN KER, has been demanded to accompt with and pay Your Petitioners, as the late Act of Parliament (made for Officers to pay the Soldiers) directs, yet he stands in Contempt of the said Act by not accompting with, and paying Your Petitioners. Your Petitioners were likewise compell'd to sign Discharges *in full* in the Pay-Office in December, 1710. not only for what was then due, but for what should become due to December, 1711. And in Case they refus'd to sign such Discharge, they were threaten'd to be turn'd out of the said Troop.

THAT Your Petitioners have laid their Memorials before the Honourable the *Commissioners of Publick Accompts*; but they find the said Commissioners have not such Power as to Redress them.

YOUR Petitioners therefore most humbly pray, That Your Honours will be pleas'd to take their hard Treatments (and likewise how the Government has been us'd) into Your Consideration, and to order them (they not being able to sue the said Lord JOHN KER at Law) such Relief as their Case requires, and as You in Your great Justice and Wisdom shall see fit.

And Your Petitioners (as in Duty bound)
shall ever Pray, &c.

THE
Humble PETITION
OF THE
GENTLEMEN

Late belonging to

*Her MAJESTY's Fourth Troop
of Horse-Guards.*

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T H E C A S E O F T H E

Non-Commission Officers and Sea-men of or belonging to the late private Ships of War, Duke and Dutchess of Bristol, fitted out thence in the Year 1708, for an Expedition to the South-Seas; Most humbly offer'd to the Consideration of the Right Honourable the Lords Spiritual and Temporal, and Commons of Great Britain, in Parliament assembled.

BY Articles of Agreement indented (and duly executed) bearing Date the tenth Day of May, 1708, made between the Owners of the said Ships, of the one Part, and the Officers and Sea-men, of the other Part, all the clear Profit and Gain which should be had or made by all the Prizes, Ships, Vessels, Treasure, Goods, &c. that should be taken by the said Ships, or either of them, or their Officers or Men, was to be divided into three equal Parts; and two of the said three Parts were to be to the Use of the Owners of the said two Ships, and the other third Part thereof, to be divided between the Officers and Men, in such manner as is therein express'd.

That two of the Owners of the said two Ships, went the Voyage on Board the same; and as soon as they came into the South-Seas, and began to take Prizes there, They, together with the Commission-Officers of the said Ships, call'd themselves a Committee; and not only took upon them the sole Power to order and dispose every thing as they thought fit, without permitting the rest of the Ships Companies to have any Voice therein; but also made a Law, and put it up in Writing in each Ship, That if any of the inferior Officers or Sea-men should converse with any Prisoners, that were or should be taken, such Officers and Sea-men should be put on Shore at the next desolate Island, and there left to perish.

Which Law they made to deter the said inferior Officers and Sea-men from enquiring into the Values of the Prizes taken. And divers of them were severely punish'd only for asking some of the Committee, of the Value of the Treasure in some of the Prizes.

That the said two Ships took above twenty rich Prizes in the South Seas, besides two considerable Towns, which paid considerable Sums for their Ransom: Inſomuch, that some Persons of the Committee declar'd, there was Treasure taken to the Value of a Million Sterling, at the least, before they met with the *Aquapulca* Ship call'd the *Incar-nation*. And in the Prizes so taken, was such Plenty of Pearls, Diamonds, and other precious Stones and Jewels, that the same were taken out by Hat-fulls, or in such like Manner, some of them being of a very great Bigness and Value; besides vast Quantities of Gold and Silver.

That afterwards, proceeding farther in the said Seas, they fell in with, and took the said *Aquapulca*-Ship, with her Cargo and Treasure, to the Value of a Million and half Sterling, or upwards; which Ship the Committee afterwards call'd the *Batchelor*, that being the Name of one of the Chief Owners of the said two Ships.

That had all the Silver, Gold, precious Stones, and other Goods and Treasure, so taken from the Enemy, been brought into *England*, and duly Enter'd, her Majesty would

would have receiv'd a vast Sum of Money (more than she has done) for her Customs, whercof she has been defrauded; the current Coin of the Kingdom might have been greatly augmented by the Silver and Gold, and the Nation enrich'd with the Treasure. And then it would have been manifest, that the Service these Men had done their Queen and Country, is scarce to be parallel'd by any Actions of the like Nature in any former Age. And they (according to their just Right and Merit) would have receiv'd their due Shares of that immense Treasure, for which they had often hazarded their Lives.

But the said Owners and principal Officers had other Purposes in view, and other Uies to make thereof, viz. to dispose of the same in foreign Parts, defraud her Majesty of her Customs, and the inferior Officers and Sea-men (on whom the Strefs of every Fight depends) of their just Shares of the said Prizes by them taken. And therefore, pretending it unsafe to return back with their Prizes to *England*, they steer'd their Course Westward, from the South Seas to the *East-Indies*; and putting in at the famous City of *Batavia*, belonging to the *Dutch*, stay'd there three Months; selling and disposing of what they thought fit of the said Prize-Goods and Treasure. From whence they sail'd to the *Cape of good Hope* (another *Dutch* Settlement) where they also stay'd three Months, and continu'd such their Sales of the said Goods and Treasure, even in publick Ware-houses, without giving the said inferior Officers or Sea-men any part thereof, or of the Moneys arising thereby, or so much as an Account of the Values, tho' earnestly desir'd. Nor did they shew any more Regard to them, in respect thereof, than if they had been wholly unconcern'd in the Matter.

That whilst they remain'd in the *East-Indies*, they were in great Want of Provisions, and particularly of Arrack, which therefore the Committee bought with some small Part of the Prize-money, wherein the inferior Officers and Sea-men had a proportionable Right; yet did the Committee make them pay for such Provisions fifteen times as much as the same cost them.

That, sailing for *Europe*, the Committee invented a Pretension, that if they came to *England*, the *East-India* Company would require Ten *per Cent.* of them, of their Effects, and made that a Colour for their going to Trade farther with the *Dutch*; and so putting in at the *Texel* in *Holland*, they stay'd there likewise about three Months, disposing of their Diamonds, Pearls, Gold, Silver, and other valuable Goods; but without rendering the said Inferior Officers and Sea-men any Part or Account thereof.

That to conceal the true Value of the Prizes taken, the Committee, from Time to Time, upon the taking any Prize, destroy'd (or wholly conceal'd) the Bills of Lading and Cocquets belonging to the same: That thereby, and by their barbarous Law before-mention'd, they might keep the inferior Officers and Sea-men wholly ignorant thereof.

That, whilst they lay at the *Texel* in *Holland*, Matters were so order'd, that one *Stephen Creagh* should go over from *London* thither; there, by some of the Owners, and principal Officers of the said Ships, to be palm'd upon the inferior Officers and Sea-men as their Agent: Whereupon, he enter'd into a Bond of six hundred Thousand Pounds (to two or three Persons of his own chosing) for his faithful Discharge of such Trust, but never did them any Service: But, on the contrary, has done them much Injury; being in Combination with the Owners and chief Officers against them: As upon Examination of the Matter will fully appear.

Also, whilst they were at the *Texel*, four more of the Owners of the said two Ships came on Board them from *Bristol*; and both at the *Texel*, and when they were come into the River of *Thames*, the Owners and principal Officers on Board the said Ships, from time to time, by Night, or in a clandestine Manner, convey'd away Boxes and Parcels of precious Stones, and other Treasure, to a vast Value. So that there's most pregnant Reason to believe, that the principal Officers and Owners did at *Batavia*, the *Cape of good Hope*, the *Texel*, and elsewhere, sell and dispose of, or otherwise convey-away, near two Millions Sterling, in Value, of the said Prize-Goods and Effects, before they Enter'd any Part thereof at her Majesty's Custom-house. And after all, the Goods and Treasure brought into *England* in the said Ships *Duke*, *Dutchess*, and *Incarnation*, alias *Batchelor*, were worth a Million Sterling or thereabouts.

That being arriv'd at the Port of *London*, Capt. *Woods Rogers*, one of the principal Officers prevail'd with the Ships Companies, to chuse *John Ward*, Esq; and *James Campbell*, their Agents, in Opposition to *Creagh*, as was pretended, but really (as since appears) to create Confusion in, and so perplex the whole Affair, that the Owners and Principal Officers might

might thereby avoid being call'd to an Account for their aforesaid Frauds and unjust Practices, and the inferior Officers and Sea-men be kept out of their Right; It being manifest, that the said Owners, chief Officers, and Agents, do all of them combine together to those Ends, tho' each of them be endeavouring to get into his own Hands the Moneys arising by Sale of the Goods so brought in.

That after the Ship *Incarnation*, alias *Batchelor*, was condemn'd as Prize, *Creagh*, of his own Head and Contrivance, without having any Title or Interest in Law or Equity, or any such Pretence, save only as an Agent, (who yet had done very little in the Matter) and without so much as one of the Persons interested joining with him therein, did about three Years since bring his Bill in Chancery against *Ward* and *Campbell*, and the Owners and chief Officers of the said Ships, to have his Agency continu'd, and the Effects put into his Hands; and thereby put a Stop to the Proceedings in the Court of Admiralty.

That, upon this, the Owners brought a Cross-Bill (in Chancery) against *Creagh*, *Ward*, and *Campbell* (the Agents) and against the principal Officers of the said Ships; the more to puzzle the Cause, and keep it from being determin'd: Which when it will be, no Man can certainly tell.

That there has been an Hearing, and an Interlocutory Decree in the Original Cause near two Years, whereby it's referr'd to Mr. *Meller*, one of the Masters in Chancery, to take the Account; who also is order'd to receive the Moneys arising by Sale of the Goods, and hath now a great many Thousand Pounds thereof in his Hands, whilst the inferior Officers and Sea-men, by whose Courage and the Hazard of their Lives, that vast Treasure was taken from the Enemy, are (together with their poor Families) perishing for Want of Bread, and daily thrown into Goals, or in Danger of being so, for Debts they have been forc'd to contract for the Support of their Families since their Return Home from taking the said Treasure; they having not receiv'd any more than Thirty Pounds a Share, tho' above a Thousand Pounds a Share would be coming to them (were Right done them) according to their just Proportions of the Prizes they so took.

Notwithstanding which, when, in these their Extremities, they apply themselves to him, he bids them go to Sea again, and for their Consolation, tells them he'll take Care of their Money. But being displeas'd with them lately, for presenting their humble Petition to the House of Lords, he caus'd the Names of the ten Persons who subscrib'd the same to be fix'd up in his Office, to Expose them, as if guilty of some great Crime or Offence.

Nor do they receive any farther Comfort or Assistance from their Agent Mr. *Ward*, who when they apply themselves to him, likewise adviseth them to go to Sea again. And as to their Agent Mr. *Campbell*, he has quitted, or rather sold his Agency, as is reported. But their Agent *Creagh* threatneth them with being whipt for petitioning the Lords.

That for their farther Relief in such their deplorable Condition, some Agents from the three or four Persons last named, or from some of them, have lately taken the Pains to come into the Parts where the said inferior Officers and Sea-men generally inhabit, to persuade their Creditors to arrest them, or (at the least) to dissuade them from giving them any farther Credit.

That the said Captain *Rogers* was principally concern'd in the disposing of the said Treasure and precious Stones at *Batavia*, the *Cape of Good Hope*, and elsewhere: And yet since his coming Home with the said Ships, has thought fit to become Bankrupt, and to be clear'd upon a Commission as such; but was soon after set out again with a Ship of Forty Guns under his Command; and it is heard, that he has since been again at *Batavia*, and in those Parts, and there continues, *Either as Conveyance for the produce of the* ~~Excess of his said Commission to dispose of or left there as is most probable.~~

All which Matters they humbly hope their Lordships, and the Honourable the House of Commons will take into their wise Consideration, in respect to Her Majesty's Interest and Service, the Relief and Comfort of the poor Sufferers and their Families, and the Prevention of such great Discouragement to Sea-men, whereby many Thousands of them are driven, from Time to Time, to take Service in foreign Countries. Which, if they shall please to do (and thoroughly to examine into the same) the several Matters aforesaid will be made most plainly to appear. With divers other Abuses of the like Nature, frequently committed in the Sea-Affairs, to the great Detriment of Her Majesty and the Publick.

THE
C A S E
OF THE

Inferior Officers and Sea-men of the
Ships *Duke* and *Dutcheß* of *Bristol*,
who took the *Aquapulca*-Ship, and
other rich Prizes in the *South-Seas*,
in the Year 1709.

THE
CASE
OF THE

Woollen Manufacturers of *Great Britain*, relating to a further Duty intended to be laid on Paper.

Sheweth,

THAT whereas the Paper called *Elephant* and *Royal*, now paying upwards of 50 per Cent. Custom, are Sorts made for pressing and fitting our Woollen Manufactures.

These, with other high Duties on Wares necessary in compleating the same, are found so chargeable, that large Quantities of our Woollen Goods are exported white, and manufactured abroad (for the proper Markets) which is very injurious to Her Majesty's Revenues, the Employment of our Poor, and Navigation.

It would be too tedious, and we hope unnecessary, to innumerate the many Burdens and Discouragements our Woollen Manufactures lie under.

Therefore we humbly pray this Honourable House will consider our Case, so as to exempt Elephant and Royal Paper from any further Duty.

THE
CASE

OF THE

Woollen Manufacturers,
&c. relating to PAPER.

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Considerations on the Quakers Solemn Affirmation; and making the same Perpetual; Humbly Proposed to the Consideration of the High Court of Parliament.

Right Honourable and Honourable,

WHEREAS there is a Bill depending for renewing the Act for the Quakers Solemn Affirmation to pass instead of the usual Oath, and to be made Perpetual. It is humbly Hoped that you will make it Universal including all Persons that go under that Name; and that such as shall refuse to give Evidence either for the King or Country, being Legally Summoned or Subpoened by Authority, may be liable to a Fine, or Imprisonment, as to your great Wisdom shall seem meet. For tho' they pretend not to be changable, nor to seek to Authority, yet none are more Changable, or seek more to Authority than themselves, not withstanding they upbraid others therewith, for proof of the First, *Viz. The Papists Cries Help, Help, Higher Powers, or else my Mass will Down: The Episcopal Men Cries Help, Help, Higher Powers, or my Common-Prayer goes Down: The Presbyterian Cries Help, Help, Higher Powers, or my Directory will Down: The Independants and Annabaptists Cries Help, Help, Higher Powers or we shall not stand. But the Pure Religion which we Quakers are off, doth not Change.* (a)

For Proof of the second, Namely, that they never Change being of the Pure Religion as they pretend. I remember about Anno. 1696, the Parliament in Condescension, Granted an Act in their Favour, That their Solemn Affirmation *In the Presence of Almighty God, the Witness of the Truth of what I say,* should stand (in some Cases) as valid as the usual Oath; which Act was Renewed the latter end of the Reign of King William. But this Act did not Please them, having not room left to Lye and Dissemble with God and Man, as their Practice had been where their bare Word only was given in Evidence: Wherefore Anno. 1707, they presented a Petition to the Honourable House of Commons, which was to have an Alteration made in the Act for their Solemn Affirmation, Namely, to have the words, *In the Presence of Almighty God the Witness of the Truth of what I say,* left out, for (said they) those words seems to look too much like an Oath, which Petition was Signed by John Field and about 40 of their Grandees, and read in the House of Commons, February the 27th 1707; and thrown out the same Day with Indignation to the Joy of all Orthodox Christians. This First shews that they can, like others, seek to outward Authority; and Secondly, that for a need they can Alter and Change; who from 1696, they could take this Solemn Affirmation for 8 or 9 Years together, but when they found it Pinch'd them, and that it was so like an Oath, that they were forced to Speak the Truth; which, without it, they very seldom do, they mov'd to have an Alteration made as above said.

But again, the words, *In the Presence &c.* did so Pinch these Sinless Saints (to Speak Ironically) that Anno. 1711, they presented another Petition to the House of Commons, Signed by the same John Field and about 20 more of their Chieftains, still Complaining of those words, looking so like an Oath, that it did not suit with the Liberty they desired, Praying that they might not be Enjoyed

to use the Sacred Name of God, &c. Upon which (as I was Informed) a Member stood up, and said: "What! You cannot Affirm in the Name of God, shall we put in *Belzebub*; and so their Petition which was offered to them February the 9th 1711, was thrown out and never brought up to the Table. But they still being at Liberty whether to Affirm or to refuse, they always had a back Door to creep out at, like *Hannibal*, of whom it is said, he never Fought without an Ambushment.

I Remember that when the Act of Abjuration was made, there being no Provision for the Quakers to Abjure the Pretender, by their Solemn Affirmation: A Peer of the Lords House told them of it, and was minded in their Favour, to move the House of Peers to insert a Clause, that they might Abjure the Pretender upon their Affirmation, but in a Day or two's time they brought a Paper to the Lords (a Copy whereof was given me) wherein they desired to be excused, for they could not do it for Conscience sake; nor from that Day to this I never understood that one Quaker ever Abjured. And for which doubtless they had a reason, for had he come in, their refusal (no doubt) had been Meritorious of his Favour; no, nor in any one of their Addresses to their Late Majesties K. William or Q. Anne, I could never see one Word against the Pretender, all which looks very much that way.

I also Remember that when a Rich Quaker in our Town was Nominated for an Assessor of the Land Tax, that Year when it was to be done upon Oath. But he refused to Assess upon his Solemn Affirmation, for that his Conscience (their old Stalking Horse) would not allow him, for he was a Rich Man, and could not with any Colour of Justice discover his Neighbours Estate and conceal his own. This and many other Instances might be brought, to shew the Necessity of Enjoyning the Quakers under a Penalty upon all urgent Occasions, to take the Affirmation; and that universally Inclusive of all that go under that Name, since they desire the Act to be made Perpetual.

For their Pretensions to Conscience, are so various and Deceitful, that they bring to my mind the Practice of one of their Predecessors, *viz. Namely, St. Thomas Becket*, who having had many Broils and Fallings out with K. Henry II. at last (as History saith (b) by the perswasion of the French King and other Nobles, he the said Becket fell down prostrate like a very Humble Saint; saying, *my Lord and Sovereign, I do here Commit unto your own Judgment the Causes and Controversy between Us, so far forth as I may, Saving the Honour of Almighty God.* The King being much offended with this last Exception, turned himself to the French King, saying, I am so well acquainted with the Tricks of this Fellow, that I cannot hope for any good Dealing at his Hands. See ye not, how he goeth about to Deceive me with this Clause, *Saving the Honour of Almighty God*; for whatsoever shall displease him, he will by and by alledge to be Prejudicial to Almighty God, &c.

I could bring in many Instances of the Quaker. Prevaricating in other Cases, but this Paper wi

(a) A general Epistle to them who are of the Royal Priest-Hood and Chosen generation &c. by George Fox his Folio, viz. A Collection of his Epistles, p. 130, 132. Printed 1698. (b) See Mr. Prims Antipathy

not allow it: But to me seems very strange, that this Unchangeable People, as they would be thought to be, should in 1696, Accept and take their Solemn Affirmation, with these words, *In the Presence of &c.* for 10 or 12 Years together: And in 1707, Complain that they Conscientiously refuse the same, upon the Account of its being so like an Oath, and so to continue Beging, Praying and Petitioning till 1711, to have those words left out of their Solemn Affirmation, viz. *In the presence of Almighty God the Witness of the Truth of what I say.* And now in 1715, to wheele about again, and Beg to have it Renewed and made Perpetual, with those words which they themselves have for 10 or 12 Years thus Conscientiously Scrupled, as being too much like an Oath, and with the Sacred Name of God also in it, which for so long a time they scrupled to take into their Sanctified Mouths. Surely, here is a Snake in the Grass, here is something more than every Body sees, or ever will, unless there be a Penaltie added upon their Refusal to accept and take it in the manner and form as the Government shall thing fit to Impose it, otherwise farewell all Justice and Right, where they are concerned.

What, did they Scruple it, because it is so like an Oath? Well, I hope all good Christians will like it the better, and indeed it is no less than an Oath. And Oaths have been hitherto the great Bullwark of our property, and some of the most harden'd Villains have been sometimes deterred from their Evil Practices with the fear of an Oath: Upon this account the People of this Nation, have never thought themselves secure in their Properties without an Oath, as I am sure they cannot at this time be too much aware off by the very same Evil Principels practiced by the Quakers: so that it seems to me Indispensably Necessary to enjoin the Quakers universally, to take their Solemn Affirmation upon a severe Penalty, when required by Authority so to do, by any Order of Justice, Summons, or Subpœna, as well as when they shall Affirm Falsely, and that (as in some Cases it has done) may be very useful both to the Government and to their Neighbours, as 2 or 3 Examples may Inform us.

First, when the Act for Burying in Woollen came first forth; And the Quakers with others, were enjoyned upon the Forfiture of Five Pounds to carry

May 5, 1715

Affidavits thereof to the Ministers, whom the Quakers call *Baals Priests, Witches, Devils, Antichrists, Babylons Merchants, &c.* This was with them a great Case of Conscience, but the Penalty of Five Pounds soon removed their Scruples.

Secondly, When the Act for Births and Buryals came first Out, and the Quakers as well as others Enjoyned under the Penalty of Forty shillings, to give in their Childrens Names newly Born, and the Death of such of their Relations as dyed, to our Ministers, and pay 6 pence for Registering them; This was a great case of Conscience with them, but the 40 s. penalty soon remov'd this scruple also.

Thirdly, The like may be said as touching the Act of Exemption, for they were Enjoyned to go to great men, not only crying out Help, Help, but to pay for Licences for their Meeting-Houses, and the Danger of not doing it, soon removed their Scruples.

How can it be believed? that a People who do not believe one fundamental Article of the Christian Faith, and who do in their Books Redicule and Blasphem all Revealed Religion, should be thought of that Probity, as to be Credited by their bare Paroles, or left at liberty, whether they will give that Security to the Government which lies in their power to perform, and that according to a Law of their own Requesting, since they, who will not obey Laws ought not to have the benefit of Laws.

Right Honourable and Honourable,

Upon the whole Matter, the Premises duly Considered, 'tis to be hoped that Your Honours will not Pass this Bill of theirs for Perpetual Indurance, without a Universal Obligation upon them, to take it when Legally Tendered or required by Authority, without a Penalty upon every Quaker that shall neglect or refuse to take it in due Form. And as I have ever thought it my Duty to God and my Country, to inform the Government both in Church and State, of what I thought might be Dangerous to either, so have I this once more, Presumed to make some Remarks upon the Quakers Bill now before you, all which I Submit to your Pious Consideration, and in Confidence, of your Charitable Construction of my Weak Endeavours, I Subscribe myself

Your Honours most Humble

and most Obedient Servant,

F. B U G G.

CONSIDERATIONS
ON THE
QUAKERS
Solemn Affirmation.

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78.

REASONS

Humbly Offer'd

AGAINST OPENING A

Trade with FRANCE for

VV I N E S.

I. **A**S The Trade to *Portugal* and the *Streights* hath Manifestly Encreas'd to a very great Heighth, by the Prohibition of *French* Wines, so must it necessarily dwindle again into a very small Trade, if that Prohibition be taken off.

II. *Portugal*, *Spain* and *Italy* take off very Large Quantities of our Woollen Manufactures and Fish, which by Experience, hath been found, *France*, for a long Time, hath not done; but, on the contrary, hath Discourag'd: Whereas the Consumption of our Manufactures in those Parts hath greatly Encreas'd, in Proportion to the large Quantities of Wine taken from them, this Consumption must again proportionably Decline, as our Trading with them for Wines shall Lessen.

III. The Trade to *Newfoundland* and *New-England* for Fish, Depends chiefly upon, and is Supported, by the Trade to *Portugal* and the *Streights*, which it will be impossible to Carry on, or Continue, were it not for the Freights back to *England*, with Wines brought from those Countries; for, if the Wine Trade to those Parts cease, the Ships must come back mostly Dead Freight, there not being other Commodities in those Parts sufficient for their Lading, it being the Encouragement of the Freights Home with Wines, which Enables the Merchants to drive those Trades.

IV. Notwithstanding the great Quantities of Wine which are brought from *Portugal* and the *Streights*, our Exports to those Parts greatly exceeds our Imports from thence; so that great Sums are Annually Return'd Home.

V. In the Trade to *Leghorn* only, There are above One Hundred Sail of Running Gallies, Annually Employ'd, all which Depend upon the Wine Trade; whereas a very few Ships, by Reason of the Shortness of their Voyages, will be sufficient to bring large Quantities of Wines from *France*; so that Opening the Trade with *France* for Wine, must consequently prove a great Prejudice to our Fisheries at Home and Abroad, which are known to be the Nurseries of our Seamen, the Encouragement of our Navigation, and the Chief Support of these Nations.

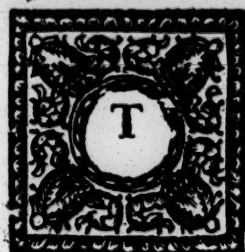
VI. It's presum'd, There can't be a greater Disappointment to the *French* at these Times, since, probably, they have prohibited Trade with the *E* on Prospect of Opening it with *Great Britain*, then to frustrate their expectation.

REASONS *Against*
Opening a Trade with
France for Wines.

REASONS

Humbly offered, against Laying a further Duty upon
Stock in Hand of Paper.

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The Sum that will be raised, by charging *the Stock now in Hand*, will fall much short of one Moiety of what was raised by the late high Duties *on the Stock then in Hand*.

Because the Importation has been considerably abated, in Expectation of a Trade being settled with *France*, in *England* but small Quantities have been made for want of Water this very dry Season; most Mills, for some time past, have stood still at least three Days in a Week.

The Duty now proposed, joyn'd to what is already paid, is *exceeding heavy*, but to pay the same for *Stock in Hand*, will add greatly to the Burthen thereof; great Part of which, consists of unvendible Goods, and late Experience having shew'd the impossibility of raising the Prices *on many Sorts* in proportion to what was then paid.

The Trouble and Difficulties which all Persons concern'd (*both in Town and Country*) must meet with, in making Entries and Paying Duties, are *very grievous*; those Persons being subject to Penalties and Fines from wrong Charges of the several Speices of Paper by the Officers; And great Numbers of People who live at some distance from the Offices, are obliged to attend from time to time to pay small Sums not exceeding one Shilling, to their loss of Time, and very great Prejudice.

Note.

When the Honourable House of Commons laid a Duty, of Three Pence *per Pound* on Tobacco, they did not think it reasonable to charge *Stock in Hand*.

And lately, upon laying Additional Duties on Hides and Skins, Coffee, Tea, &c. they also exempted *Stock in Hand*.

is

Paper is a Commodity less vendible than any of those, by Reason of the high Duties already Paid, the deadness of the said Stock, and the uncommon Use of the greatest Part thereof. And therefore the Dealers therein Humbly hope no additional Duty will be laid upon their Stock.

REASONS humbly offered,
Against Laying a further
Duty upon *Stock in Hand*
of Paper.

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The CASE of the Proprietors of the Classis Orders for the Year 1711.

BY the Act for the CLASSIS ADVENTURE, several Duties were granted to Her Majesty for securing thereby a Yearly Fund of 186670 £. for 32 Years, from *Michaelmas*, 1711. for satisfying such Orders as are therein mentioned, to the Contributors of any Sum not exceeding Two Millions.

And further for raising the said Yearly Fund, it was thereby Enacted (amongst other things) in the Words following.

P. 476. “ And in case the said Moneys, by this Act appointed as
“ afore said, shall at any Time or Times appear to be so
“ deficient or low in the Produce of the same, as that with-
“ in any one Year to be reckon’d as afore said, the said Mo-
“ neys arising into the Exchequer for all the Duties, Reve-
“ nues and Branches as afore said, shall not amount to so
“ much as 186670 £. That then, and so often, and in
“ every such Case, so much as shall be wanting to make up
“ the said Fund or Sum of 186670 £. for every or any
“ such Year, shall be supplied and made good from Time to
“ Time, *out of the first Aid or Supply to be granted in Parlia-*
“ *ment, next after such Deficiency shall appear, and shall from*
“ *time to time be transferred thereunto, as soon as the same*
“ *shall be granted.*

Two Millions was accordingly advanced on the Credit of the said Act, and the said Duties being new and uncertain as to their Produce, the above Clause was a great Encouragement to the advancing thereof.

At the End of the first Year, which was *Michaelmas* 1712. there appeared a great Deficiency of the said Fund, which according to the Tenor of the above Clause should be transferred to the first Supplies granted this Sessions of Parliament.

This would be very much for the Publick Good, as well as the particular Relief of the Proprietors, since by annually making good the Deficiencies of the Fund, the same will be provided for almost insensibly, and the whole Debt discharged within the 32 Years; but by suffering the same to run in Arrear, the Debt may be larger at the End of the said Term than it was at the Beginning.

Wherefore the Proprietors humbly hope the Intent of the said Clause will be effectually answered in such manner as by this Honourable House shall be indg most convenient.

THE
CASE
OF THE
PROPRIETORS
OF THE
Classis Orders
For the Year 1741.

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81.

A Short ANSWER
TO THE
CASE
OF

British Buckrams for Tillets, Asserted.



THAT it is plain that *British Buckrams* can't be made so Serviceable, as those that come from Abroad, in order to the Well fitting up and Compleating of the *Woollen Manufacture* for Foreign Markets; Which the *Case* does not pretend to say it will, nor does it say a Word that *Foreign Buckrams* Pay 22 per Cent. and upwards, which Amounts to above 4000 *l. per Annum* to the Government: And if the *British Buckrams* could be us'd in fitting up the *Woollen Manufacture*, the *Packers* wou'd easily be perswaded to use those *British Buckrams*, when they are to be Bought at much Cheaper Rates than *Foreign Buckrams*.

AS to the Assertion in the *Case*, That if *Foreign Buckrams* shou'd be Charged as *Linens*, it will not exceed *Twelve Farthings* upon each Cloth being Exported.

Answer; *THIS is False in Fact.*

NOW if it should be so understood that *Foreign Buckrams* (which are us'd only by *Packers*) should Pay a Duty as *Linens* (which 'tis humbly Conceiv'd was not intended when the Duty was laid on *Linen*) it will not only be a Total Prohibition of *Foreign Buckrams*, but so far a Discouragement to the *Woollen Manufacture* that it will Amount to a Duty thereupon.

UPON the Whole Matter 'tis plain, a Private Single Interest is by the *Case* above-mentioned put in Competition with a Trade so Beneficial to the Whole Kingdom.

A Short ANSWER
TO THE
CASE
OF

*British Buckrams for Tillets,
Asserted.*

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T H E
C A S E
Of the Land-Owners of the Levells of
Havering and *Dagnam*, in the County
of *ESSEX*.

BY a Violent Storm, the 29th of *October*, 1707, some Part of the Walls, in the Levells of *Havering* and *Dagnam*, in the County of *Essex*, was broke down, and a Sluce blown up, which occasion'd a general Overflowing of the said Levells.

That the Land-Owners, by the Direction, and under the Authority of Her Majesty's Commission of Sewers for the said Levells, have rais'd very great Sums of Money to near double the Value of the Lands under Water, which has from Time to Time been employ'd in Attempts to recover the said Lands.

That upon the 29th of *October* last, after Six Years vast Expences, the said Land-Owners stop'd the Breach; and, in a very little Time after, recover'd the said Levells, so that the Land was dry, and ready for Tillage.

That upon the 15th of *February* last, there happen'd a General Storm, which was attended with many Publick Calamities; but the Land-Owners of the aforesaid Levells were in more particular Manner affected with the Fatal Consequences of that Storm, which not only made new Breaches in the Walls of the said Levells, but it broke the Land at the End of the New Works, which were finish'd at near Thirty Thousand Pounds Expence, and has thereby so affected the whole Works, that it is scarce possible to stop it again in the same Place.

To this Expence may be added the Annual Loss of the Rents, and the Land Tax, which has been constantly paid for the same; so that upon a moderate Computation, since this Breach first happen'd, the Land-Owners have lost upwards of Forty Thousand Pounds.

Note, If this Breach is not speedily stop'd, the very great Quantities of Land which has been, and is Daily carry'd away, more especially now, when no Attempts are made to cure it, will certainly Interrupt and Ruin the Mouth of the River *Thames*.

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PUBLIC DEBT AND TAXES.

THE following Petition was presented by Mr. Grey to the House of Commons, the eighth of February—was received, and read, and ordered to lie on their table; and there it yet lies, waiting the favourable determination of support from those who have no objection to serve their country, by serving themselves: which happily blending the *utile dulci*, would seem at once to embrace and attach the whole community; for where is the man so lost to feeling, who would rather forego the private benefit, than that the public should partake the advantage! The matter so far settled, the next step necessary is to set on foot an inquiry, in order to bring the several allegations, contained in the Petition, fairly to proof, and, in the event of the prosperous issue of that inquiry, to frame thereon an arrangement—for the immediate and final settlement of that tremendous concern, the present national debt—and for the further purpose of providing in future for the current and occasional expences of Government, by such supplies as shall put it beyond the power of ignorance, inattention, or design, to blast the comforts of this country again, either in these times, or in any time to come by such excesses. Towards the accomplishment of this great work, the Petitioner has performed his part; it now rests with the public to perform their's, either by taking upon themselves the further management, for the field is open, or by giving him due encouragement to proceed—for to proceed, without assurance of support, would only be to court disappointment and injure the cause. No such sufficient assurances, however, have yet been received, which accounts for the present demur—but except the lovers of their country are as faithless as some other lovers, they will not—cannot be withheld. Professions of patriotism have long been in vogue, and the supposed flippancy of them has brought much discredit upon the kingdom: an opportunity now offers to retrieve the national character; the time is come for those who have stood forward in that way, to prove their sincerity, by uniting their best endeavours to bring about the inquiry alluded to for the special purpose named. Not that the plan produced is meant to be insisted upon as a finished piece, but merely, as it is stated to be in the Petition, the sketch of an arrangement, which if found defective, saying its spirit, may be moulded in any other way to perfection by the wisdom of Parliament.

March 28, 1796.

To the Honourable the Commons of Great Britain in Parliament assembled.

THE HUMBLE PETITION OF THE SUBSCRIBING PARTY,

PRAYETH,

THAT your Petitioner may be permitted by this honourable House to sketch, for their consideration, the outline of an arrangement, which takes for its aim the political salvation of this country, the happiness of the community at large, and of every individual, and which proposes to work its effect by means which are apparently both easy, certain, safe, and honourable. And your Petitioner further prayeth, that it may be permitted him to state to this honourable House, for the purpose of their more ready determination, the reasons which have influenced him to suppose the arrangement in question to be fraught with the benefits suggested by him,—which are briefly as follow:

That

That from sources of information, the best within his reach, it has appeared to the complete satisfaction of your Petitioner—That trade is not an object which by any possible human contrivance can be made amenable to the payment of any tax, that can affect the parties concerned in its management, inasmuch as the parties so concerned, can always contrive to relieve themselves by shifting the weight, which in that case must ultimately and principally fall upon the proprietors of land, who have no such means of shifting the weight.

That uniformly as the trade of the nation has more or less flourished, the territorial rental has in like manner, and in some such proportion, been observed to advance.

That in the year sixteen hundred, the territorial rental did not exceed six millions per annum.

That from the year sixteen hundred to sixteen hundred and eighty-eight, under all the difficulties and distresses of the intervening space, the trade of the country increased, and the rental advanced from six to fourteen millions per annum.

Computing, therefore, by the vast increase of trade from the period last named to the present time, comprising a series of years for the most part favourable, the final result must be, that the present rental cannot reasonably be supposed to fall short of fifty millions per annum ; which led of course to the following conclusions :

That the way to advance the land is to give every possible encouragement to trade.

That the way to depress the land is to burden trade.

That to burden trade is, in effect, to burden land, besides depressing it.

Taking, therefore, the present territorial rental at fifty millions per annum ; the funded rental at ten millions ; the two together at sixty millions per annum ; the present payments to Government at fifteen millions per annum ; the pressure of those payments on the rental named, as authorized by general acknowledgment, at fifteen shillings in the pound, your Petitioner proceeded to reason upon those data as follows :

If it be true that the territorial and funded rental is sixty millions per annum,

Then is it true, also, that five shillings in the pound, on such a rental, will raise a revenue of fifteen millions per annum.

If it be true that we now pay at the rate of fifteen shillings in the pound to raise a revenue of fifteen millions,

Then is it true, also, that we pay ten shillings in the pound more than we have any occasion to pay.

If

If it be true, that the trading part of the nation can always contrive to create for themselves an exemption from state burdens,

Then is it true, also, that the landed and funded proprietors are, and have all along, to their irreparable loss, been the principal, if not the sole paymasters of all imposts, and consequently that little or no injury will be done to that body of men, but that great and lasting advantage will accrue to them, and to their posterity, by changing the mode, as here proposed, of collecting the revenue.

Your Petitioner, therefore, most humbly prays, that he may be permitted and authorized to charge his real estates with the payment of thirty thousand pounds, or with the payment of such other sum, be the same more or less, as may be ascertained by this honourable House to be his proportionate share of the public debt, supposing the same public debt to be parcelled out for payment among the several proprietors of lands, houses, mines, waters, tythes, rents in any way arising therefrom, monies so secured, and public funds.

And your Petitioner further prays, that his said estates may be made subject to the payment of interest on the sum to be so charged as above, at the rate of four pounds per cent. or any other rate of interest, be the same more or less, which may appear to this honourable House to be his proportionate share of the annual charge of the said public debt, supposing the same to be transferred as aforesaid.

And your Petitioner further prays, that he may be permitted and authorized to pay in future his proportionate share of the civil list and peace establishment, by an annual pound rate, the quantum of which pound rate to be ascertained by this honourable House in like manner as before has been mentioned.

And your Petitioner further prays, that as often as the exigencies of Government may require a further aid, he may be permitted and authorized to pay his proportionate share of the same, by such an additional pound rate as may be ascertained by this honourable House to be sufficient to accumulate the sum which would fall to his lot of payment, supposing the whole annual supply to be raised within the year, and parcelled out for payment among the several proprietors aforesaid.

And your Petitioner further prays, that he may be permitted and authorized to make such temporary, and such permanent payments, as have been severally named and assented to on his part, by half-yearly instalments, and that the same may be declared to be accepted in full satisfaction of his proportionate share of all taxes, customs, duties, and parliamentary imposts laid already, or which hereafter may be laid on the subjects of this country, or their concerns.

And your Petitioner shall ever pray,

FRANCIS BLAKE.

SIR FRANCIS BLAKE'S

PETITION

TO THE

HOUSE OF COMMONS

ON THE

Public Debt and Taxes.

F. Hargrave Esq.

New Bowell Court

Bourne
Kc

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THE power of the crown to establish peace, by yielding independence to revolted colonies, has been strenuously denied, and the necessity of delegating a special authority for that express purpose by an act of the whole legislature has been asserted with much warmth and vehemence. Yet the question, in the view which these gentlemen take of the subject, is rather speculative than important; because *their wish to confer this power* admits that the crown *ought to possess it*, while the *indefinite terms* in which they propose to convey this authority are an indirect acknowledgement, either that the power from its nature is incapable of *previous limitations*, or that the *interests* of the state do not require that *these limitations* should be imposed. In the judgment of these gentlemen the crown *ought to possess this power indefinite, unrestrained in its exertion*, the ministers and advisers being responsible to parliament for the exercise of this, as of every other trust. The single dispute between us is, whether this power resides in the supreme executive magistrate, as a part of the original trust inherent in his office, or whether an act of parliament be necessary to correct this supposed defect in the British constitution.

The event which gives occasion to the present question, viz. the revolt of colonies, is perfectly new: we cannot therefore obtain the aid of experience. We must reason from analogy, and from the distribution made of political power among the several orders of the state. One error I wish to preclude—No argument can be drawn from communications made by messages from the throne, or from the approbation given to any measure by *the votes or addresses* of either house of parliament. The votes and addresses of either, or both houses, convey *no authority*; because, by a fundamental principle of our government, the concurrence of the *three branches* is necessary to *every act* of the legislature, each possessing an absolute negative on the other two, as the means of restraining the excesses of all. Addresses may convey *advice*; but advice presupposes *power* in the person to whom the advice is given, having for its object the *proper direction of that power*.

Reasoning from analogy, I would ask any man, what power similar to the present ever was exercised by parliament? Parliament, from the numbers of which it is composed, from the different orders of which it consists, from the forms of its proceedings, from the irregular times of its meeting, from its want of secrecy, vigour, unanimity, and dispatch, seems to me little qualified for the exercise of this power, or of

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any other part of executive government. The delegation proposed by general Conway's bill proceeds upon this disability, admits that the authority *ought* to be vested in the crown: yet he threatens with impeachment the minister who dares to believe that this authority does not reside in parliament for *the mere purpose of abdication*, or that it does belong to the executive magistrate, by whom alone he confesses this authority can be properly exerted. Unable to discover a possible good effect of such an abdication of authority, I am apt to suspect the principle from which it originates, and am inclined to think that an authority actually exists in the crown, which general Conway thinks ought to be given. Powers analogous, indeed so similar, that one is tempted to think them the same, have ever been exercised by the crown; the powers I mean are those of declaring war, of directing the national force, of receiving, sending, and instructing ambassadors, of negotiating, and finally concluding the terms of peace. In the exercise of the last, territories have been relinquished; nay, even in time of profound peace, Dunkirk was sold to France by Charles II. This scandalous breach of trust afterwards became an article of impeachment against the minister, but no man ever denied that the power was properly vested in the executive magistrate. In a negotiation with France no man can doubt that a treaty yielding any part of America to the subjection of France would be within the authority of the crown. To arrange the limits of territory between the respective states is the ordinary subject of every treaty of peace. Yet who ever heard of an act of the British parliament either antecedently to *delegate this power* to the crown, or to *confirm* the cession when made? If no such act exists, the executive magistrate must possess the power, as a part of his original trust. Now suppose France does not demand the cession of a province to *her dominion*, as the condition of peace, but merely an *abandonment of this province* by Great Britain, with permission to the inhabitants to govern themselves. Cannot the executive magistrate, who can unquestionably make the *greater* concession, make the *less*? or must the ridiculous ceremony be observed of yielding the territory to the dominion of France, that France by a separate treaty may again yield it to the inhabitants? Perhaps an adversary may be inclined to admit, that in a treaty with an acknowledged sovereign, all this reasoning might be just, but that the real difficulty is that of treating with revolted subjects. This difficulty is derived from pride and passion, not from reason. In the first place, I would ask this adversary, in what act of parliament he finds the catalogue of these sovereigns
with

with whom the crown may treat? When the Dutch United Provinces became sovereign states? or whether the engagements taken with this people, before Spain acknowledged their independence, were valid? I would next remind my adversary that his notable distinction can possibly lead only to one of these two conclusions—Either that in an *indirect negotiation* the interests of Great Britain must be committed to the *ministers of another state*, or that if the political situation of Great Britain requires, that America should be detached from the general confederacy, by yielding her independence in a *direct negotiation*, it will be the duty of the crown to communicate this intention to parliament, and probably defeat the attempt by disclosing it. Writers on the laws of nations agree, that revolted subjects, while able to maintain their revolt, must be treated as hostile states, and the established rules of warfare be observed towards them, because the *relations* are the *same*, and out of the *same relations* the *same duties* must arise. Yielding to invincible necessity, we have acted towards the Americans as a hostile state, have exchanged prisoners, made conventions, and, unable to subdue them, must, I fear, close the scene in the same manner—by a final treaty of peace. The reasons which vest in the crown the power of negotiating other treaties, apply with equal force to this; nor can any understanding discover the important distinction: the additional trust is not *extremely dangerous*, since the crown can *unquestionably withdraw the troops*, and instantly give them independence, by an act which no power can recall. The direction of the national force, and the cession of a contested territory, seem to be powers so intimately blended, that whatever laws may have declared, perhaps these were never really and in effect separated in the history of any nation. In this government, should the crown withdraw the garrisons of Gibraltar, now besieged, or of Port Mahon, which the enemy are preparing to besiege, vengeance on the minister would be the only possible atonement to the country.

I will not refer to our history or the ancient writings of lawyers for the extent of prerogative, because our kings heretofore exercised an undefined authority in every part of government, large remains of which are yet to be seen in the foreign dependencies of Britain. I will reason wholly from the principles of government established at the Revolution of 1688.

The authority of parliament properly so called, i. e. of the *three estates acting conjointly* is wholly *legislative*, and extends to all persons and things in their nature the subject of legislation. In

rather parliament *prescribe rules of conduct*, both to king and people, whenever they judge it expedient. But laws in their nature are rules of conduct prescribed *antecedent to the act* which is intended to be regulated; and where these either cannot be, or in fact are not given, the controul is of a different kind. It is effected by the two houses acting separately and distinctly—the one accusing, the other punishing the ministers and advisers of the crown for an *abuse of the trust* vested in the crown. To confound these distinct capacities of parliament is to destroy the control.

All rights of the subject and of the prince in *internal government* are capable of being accurately defined, and are therefore the proper subjects of legislation—But wherever laws are given, i. e. *rules antecedently prescribed*—the power of rendering them effectual is not exercised by the ministers of the crown. Judges nominated indeed by the crown, but independent when named, expound the law; and a jury, chosen by lot from the people, apply the law so explained to the particular case; or where the law and fact are complicated, or the intention of the party involved in the decision (as in criminal cases), the jury may, and generally ought to *determine the whole*, having first heard the law explained by the judge, and received the facts from the testimony of witnesses: for the jury are a tribunal little liable to corruption, whose corruption cannot extend beyond the particular cause, and who have a common interest in protecting their fellow-subjects from oppression. Should these rights of the subject thus ascertained be subverted by fraud, or overborne by violence, parliament doubtless ought to interpose, not in the character of legislators, but to impeach and punish the authors of the injury, or even, in cases of *extreme necessity*, to adopt the example of our ancestors in the glorious Revolution.

Beyond these rights thus defined, nations possess *rights* relative to *other states*, who *acknowledge no law* but that which the Creator hath given, and even in the *interpretation of this law* admit no judges but themselves. The appeal here, therefore, is to force; and the decision is by arms. The power of prosecuting these rights through the various stages of the contest, from the first appearance of injury to the final pacification, form the external executive power of the state. I will not say this power cannot in some degree be exercised by popular assemblies; the examples of the ancient republics prove the thing to be possible, yet I would refer to the histories of those commonwealths, the in particular, to prove the superior wisdom of our own constitution which has vested this authority in the crown. In whomsoever

ever this authority is vested, it seems from its nature incapable of *definite limits*—The execution must depend on an infinite variety of circumstances, and be guided by events as they arise. Who can foresee the probable successes or defeats in war, the forces to be prepared by the several states, the use to be made of that force, or the designs entertained by the different princes of Europe? If these cannot be foreseen, how is it possible to *prescribe rules* for a conduct dependent on circumstances *not known at the time*? The attempt would be ridiculous, and in fact has never been made. Neither will it be more desirable that parliament should *ratify the act when done*. To ratify the act when done could answer no purpose but that of protecting ministers. Let parliament once pass a law confirming a particular act of the executive power, there is an end of impeachment by the commons, and of the judicial power of the lords. Let discoveries be afterwards made, let the guilt of ministers be as plain as the sun, *this law will be his defence*. The *consent of the crown* must be obtained to the *repeal of the law* (a decisive proof that it ought never to have passed), before his conduct can even be questioned. For this reason, where a direct control is intended over the executive power of the crown, this cannot be effected by the two houses acting in their *legislative capacity* in conjunction with the crown, but in *their separate distinct* characters as *accusers* and *judges*. With great propriety and truth, therefore, Sir William Blackstone says, “ In the exertion of those prerogatives, which the law has given him, the king is *irresistible and absolute*, according to the forms of the constitution. And yet if the consequence of that exertion be manifestly to the grievance or dishonour of the kingdom, the parliament will call his advisers to a just and severe account. For prerogative consisting (as Mr. Locke has well defined it) in the *discretionary power of acting for the public good* where the positive laws are silent; if that *discretionary* power be abused to the *public detriment*, such prerogative is exerted in an unconstitutional manner. Thus the king may make a treaty with a foreign state, which shall irrevocably bind the nation, and yet when such treaties have been judged pernicious, impeachments have pursued the ministers, by whose agency or advice they were concluded.” Let him, who will not yield to the authority last mentioned, examine the beautiful and masterly description of the English constitution by the president Montesquieu, where he explains the reason why the legislative power *ought to have* no right to stop the executive, and why to blend these powers would be the d-

struction of our constitution. In the present instance, to unite these powers would be to exempt the persons entrusted with the execution from all possible control.

Having established the general reasoning, let us apply it to the particular case. A law is proposed giving authority to the crown to conclude finally with America, meaning on the terms of yielding their independence. If it be a mere delegation of a general power, leaving to the *discretion* of ministers to determine *when* or *whether* it is *ever to be employed*, such a law certainly admits that the crown *ought* to have this general unrestrained power—If it be intended as an intimation, that the time may probably soon arrive, when the exercise of this power will be *proper*, such a law may not only forward the event, but certainly lessens the responsibility of ministers. If, lastly, it be intended to prescribe the *immediate exercise* of this power, such a law will be a plain assumption of the executive authority by the legislature, an union of powers which ought ever to be distinct, and will exempt ministers from all future examination of their conduct by giving the previous sanction of parliament to *their act*; for it were idle to suppose the parliament could exercise a correct judgment on the subject. To form an opinion on the propriety of yielding independence to America requires an accurate knowledge of the state of that country, of the temper of the people, of the resources of their government, of our own force, its destination and probable success — lastly it requires a perfect knowledge of the force and resources of our enemies, of the views and engagements of the other states of Europe. Whence could this knowledge be derived but *from the executive magistrate*, who has all the means of information in his hands. With his ministers, all ambassadors, and all other persons in a public employ, correspond. To him is confided the secret service money, with every other means of procuring intelligence. *His ministers* would, therefore, in effect *dictate* the judgment of parliament, yet would an act *thus procured* operate as an act of *indemnity* to ministers. Let us not be wiser than our ancestors. Let us permit the executive power to proceed within its proper department, where the *abuse of trust* is not *palpable and clear*; and when time shall disclose all the circumstances, under which ministers shall have acted, at present known only to themselves, let us judge their conduct with temper, and acquit or condemn, as their merits or demerits may require. The law proposed in the first view presumes a fact in the constitution, which I cannot admit; and in the latter view

view will operate as an indemnity to ministers, pernicious in its immediate effect, much more so in its example.

The question has been proposed, do you contend that the crown can give independence to Ireland, or yield Scotland to a foreign state? Were I disposed to employ the same fallacy I would ask, can parliament repeal the habeas corpus act, abolish the trial by jury, or give the force of laws to the proclamations of the crown? *All government is a trust.* Plain and palpable *abuses* require *extraordinary* interposition. Should *parliament* forget its duty, the *people*, should the *crown* betray its trust, *parliament* must interpose—not, I hope, to confound the different orders of the state, but to place the *trust* in more *honest* hands. In the present instance either a *cession* of territory as the means of peace is *necessary*, or it is *not*. In doubtful cases it is scarcely possible that parliament should antecedently possess the information, without which they cannot decide. The delays of their proceeding, and the public discussion of the information necessary, if such could be obtained, would destroy all the advantages which this country possesses by placing the executive power in the crown. If the cession be *obviously unnecessary*, the *breach of trust* is *apparent*—parliament will interpose by addressing the crown to remove the ministers, to break the convention, which, derived from fraud, would not bind the nation; would punish the ministers, or in cases of urgent necessity, where obstinate perseverance involved the ruin of the country, perhaps remove the sovereign and his family from the throne. Writers on the laws of nations have displayed great acuteness in discussing cases in which the nation at large, or the inhabitants of a ceded territory may resist the sovereign. Their principles apply equally, whether *the people* themselves or *their representatives* commence the resistance. I am not however reasoning on extraordinary cases; I reason, to use Sir William Blackstone's expression, "according to the forms of the constitution."—Neither is the distinction worth much contention. *Prevention* would in most cases be impossible. The commander of a garrison may yield a fortress, and may deserve death for his conduct, yet to regain the fortress would be difficult. Should the crown at this time withdraw the garrisons of Fort St. Philip and Gibraltar, the *breach of trust* would be *gross*, yet most men in the present situation of affairs would despair of regaining the possession. Should the crown recall the fleets and armies of Great Britain from America, is there a man wild enough to recommence the war from the hope of conquest? The truth is, that
where

where the decision is referred to arms, he who has the direction of the national force always must have it in *his power* to betray the rights of the community. Fortunately, where the breach of trust is most easy, the temptation is least. All the affections of the sovereign, the love of glory, of power, and of dominion, all the passions which govern men occupied in conducting the affairs of nations, war against the cession of a country which the force of the state can possibly retain. The probability is greater that Britain will be exhausted in a vain and fruitless struggle for dominion which she cannot uphold, than that the contest should cease before the *interests* of Great Britain demand a *cessation of hostilities*; or that the *inclination* of the sovereign to a disgraceful peace should *precede* the *necessities* of the state. The power of declaring war is a more *dangerous trust*, more liable to *abuse*. Yet this trust is absolute in the sovereign. When the resolution is taken, the ambassador recalled, and war in effect commenced, messages are indeed sent to both houses of parliament, and general assurances of support returned in their addresses. Why? because the power of the purse, the grant of men, money, and ships, depend on the pleasure of parliament. This power operates in some degree as an antecedent restraint, but is not wholly effectual as a preventive. The war is in effect commenced, and defensive warfare at least becomes necessary to the public safety. Every man who has read our history knows, that even this power of parliament was principally insisted upon with a view to a very different object, as a restraint in the *the internal government of the country*. Could the sovereign raise money without the consent of parliament, parliaments were unnecessary: could the sovereign levy troops without consent of parliament, he might by force overturn the laws. These grants of men and money are therefore made only for a year; nay, the military laws by which the troops are governed continue for no longer space, that without the concurrence of parliament by a new grant by a renewal of those laws, the whole force entrusted to the sovereign may be actually dissolved. This restraint, though principally directed to the internal government, operates likewise as a considerable, but a very inadequate control to the power of declaring war against foreign states.

Many gentlemen have been misled by the acts of parliament necessary in the conduct of this war. While the war is carried on against revolted subjects, not acknowledged as independent states by the *proper authority* (wherever that authority is vested), every American

rican taken in war had a right by the laws of this country to be tried as a rebel, or to be released; every man had a right to reclaim his property, who had not forfeited that property by conviction. The interposition of the legislature therefore became necessary, but this necessity was derived from the *forms of our internal government*. From the same cause proceeded the act of parliament authorizing commissioners to treat with America. The object of this mission was to settle the terms on which the Americans should submit to be subjects to Great Britain. Their claims were various *exemptions from the legislative power of parliament*. Parliament necessarily therefore became a *contracting party*, because the crown could not impose *limitations on the power of parliament*. This case was likewise new. Limitations imposed on the supreme legislature by *stipulations with subjects* have no precedents in our history. The thing itself became necessary, and the forms of our government decided by whom the act must be done. But it may be said, *acts of parliament* have been made respecting America. Can the crown repeal them? *Acts of parliament* have also been made respecting Grenada, St. Vincent's, &c. yet let these islands be ceded in a treaty with France *made by the crown*, these acts must fall, because the subject of legislation will no longer exist. The reasoning applies equally to America when a cession of America shall be made by the proper authority. I think, from the analogy of our government, that authority resides in the crown. The sovereign cannot by any stipulations vary the rule of *internal government*, because he is a monarch limited by *laws*, or by *rules of conduct* prescribed by the *legislature*. The external executive power (where the internal government is not affected) seems to me incapable of such *previous laws*; in fact, none are given. This, therefore, in the language of Mr. Locke, is "a *discretionary* power of "acting for the public good where the positive laws are silent;" for the abuse of which, if not directed to the public good, ministers are responsible. The acts of this power are in their nature momentary, for the most part incapable of recall, always dependent on circumstances *known at the time* only to those entrusted with the other parts of executive government. To transfer this power to *parliament*, to make the treaty *their act*, can answer no good purpose, will operate as an indemnity to ministers, and remove the single constitutional control of which the subject is capable—the punishment of those who abuse it.

When

When this question occurred in the house of commons, the principles on which I have here reasoned being familiar to my mind, I was inadvertently led hastily to declare an opinion.—A gentleman then speaking, heard the expression, and compelled me by his vehement attack publicly to avow a sentiment that *between us at least* was purely *speculative*, for his bill was intended to *give this power to the crown*. He desired to correct a supposed defect in the constitution, I thought this defect did not exist. I am not vain enough to suppose my reasoning will change the opinions of others, but I wish to have it understood what the opinion thus hastily drawn forth really was. If I err in *the principles* here stated, I have Sir William Blackstone, Locke, and Montesquieu, I will not say, the companions, but rather the authors of my error. If in the *application* of these principles I have erred, it is an error which my understanding is at present unable to detect.

Argument for the
power of the King to make
laws independent
of the House of Commons
by George Horne
Esq.

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Great Britain Parliament

Some REASONS Humbly Offer'd to the

Confideration of both Houses of Parliament;

Shewing, the Necessity for making a Law this present Sessions of Parliament, to oblige all foreign plain Black Silks to be Imported at the Port of London, to be there Seal'd and Mark'd, after the Duties laid thereon shall be paid; and for obliging all plain Black Silks manufactured here to be Mark'd or Seal'd before expos'd to Sale.

I. **T**HAT the Manufacturers of the said plain Black Silks, by their Industry, have brought the said Manufacture to such a flourishing Condition, as have sav'd to this Kingdom, in ready Mony, the Sum of Three Hundred Thousand Pounds yearly, for Twenty Years last past.

II. That this most considerable Branch of the Silk Manufacture lies under a great Discouragement, by the vast Quantities of Foreign Silks which are brought clandestinely into this Kingdom, from *Holland*, and other parts, without paying the Duties laid thereon by several Acts of Parliament.

III. That according to a moderate Computation, her Majesty has been defrauded yearly, by those illegal Practices, of the Sum of Sixty Thousand Pounds; and it has much increased since the Peace, by the freedom of Navigation: That if a speedy Care be not taken, we humbly conceive, this Branch of the said Silk Manufactory will in a short time be entirely lost in this Kingdom, by reason there is no Law, that directs the Padesoy, Rastegenes, and Mantua Silks, both foreign, and those manufactured here, to be mark'd and seal'd, as there is for the Alamodes, Lustrings, and Ranforcees.

IV. That the sole making of Alamodes, Lustrings and Ranforcees, by the Royal Lustring Company, will expire at the end of this present Sessions of Parliament, and other Weavers will have an equal Right to make the said Alamodes, Lustrings, and Ranforcees. Vide 9 &
10 Gul. 3.
cap. 43.

V. That in regard there are several Laws made for preventing the fraudulent Importation of the said Alamodes, Lustrings and Ranforcees, where-soever made, which shall be found in the Possession of any Person, not mark'd and seal'd, as in the said Laws are directed, shall be forfeited; and the Person, in whose possession the same shall be found, shall forfeit One Hundred Pounds. 6 & 7
Gul. 3.
cap. 18.
8 & 9
Gul. 3.
cap. 36.

Wherefore, and for that there is no Provision made by Law, whereby the said Alamodes, Lustrings, and Ranforcees, hereafter to be made by the said Weavers, may be seal'd and mark'd as it is required by the said Laws:

For Remedy therefore, and in order to prevent the illegal and pernicious Trade of Smuggling, the preserving of Her Majesty's Revenues, and giving Incouragement and Employment to many Thousand Families, by manufacturing the said Goods;

The said Manufacturers most Humbly Pray, if it is consistent with the great Wisdom of Parliament, that not only all such Alamodes, Lustrings and Ranforcees, as shall be made by the said Weavers, be mark'd and seal'd; but that the Padesoy, Rastegenes, Mantua Silk, and all other plain Black Silks, may also be mark'd and seal'd; and that all the last mention'd Goods, that shall be Imported, may be likewise seal'd and mark'd at the Custom-House, London, by the proper Officers, as the said Alamodes, Lustrings, and Ranforcees are done, by virtue of the said Laws.

REASONS

F O R

Obtaining a Seal

T O

Mark all plain Black Silks,

CONSIDERATIONS

Relating to

The QUAKERS Affirmation.

THE present Solemn Affirmation being granted by the Government, in Favour and Compassion to the People call'd *Quakers*, We then were, and still are, Humbly Thankful to God and the Government for the same.

And forasmuch as in two several Acts of Parliament, for laying Duties on Hides, &c. And in one other Act for laying Duties on Soap, Paper, Chequer'd Linen, Silks, Callico's, &c. passed by the present Parliament, the Solemn Affirmation is Enacted to be taken instead of an Oath, in respect to the said Duties, for the Term of Years mentioned in those Acts.

It is not unknown, that many of the said People employ not only Themselves and Families, but Thousands of others, in sundry Manufactures of this Kingdom, which very much adds to the Promoting of Trade in general.

If therefore they are render'd incapable of proving their just Debts (by discontinuing the present Affirmation) their carrying-on of the Manufactures will be greatly discouraged, and those Makers amongst them, who now cheerfully pay their respective Quota's of all publick Charges, as well as maintain their own Poor, may be reduced to Poverty themselves.

Besides, it is inconceivable what an Obstruction to Business, and vast Prejudice it must be, for want thereof, in every Custom-house in all the Ports of this Kingdom, where so many *Quakers* are almost daily concerned, for themselves and others.

Not to mention the Confusion that will inevitably follow, upon their being render'd incapable of giving Evidence to Wills, Deeds, Contracts, &c. to which they are already Witnesses; whereby Persons, not *Quakers*, will be depriv'd of the Benefit of the Law.

And as the Favour granted Us hath not been found prejudicial in Judicial Proceedings in Law and Equity, but the contrary, we humbly Hope, what we have here said, will be sufficient to the Commons of Great Britain in Parliament pass the Bill now before them, for Lengthening the present Solemn Affirmation to the People call'd *Quakers* a Time as they in their great Wisdom

Considerations

Relating to the

QUAKERS

Solemn Affirmation.

The C A S E

O F

JOHN POWELL, of London, Merchant;

Who Originally Contributed 1.3,700 towards the Two Millions advanced on the Credit of an Act of Parliament, For Settling the Trade to the East Indies; and who was thereupon, with all the other Contributors, Nominally Incorporated into a General Society for that Trade, Exclusive of the Joint-Stock Company.

IN the Year 1698 several Eminent Merchants and others, pretending an open Trade to the *East-Indies* was most beneficial to the Nation, (especially since that Trade was so perfectly well known to the *English*;) raised great Clamours against the *Old East-India Company* for their Oppression; and to remove so prejudicial a *Monopoly*, as they Then called it, offered to lend Two Millions to the Government, on condition the Trade might be laid open, and that all persons and Corporations might have liberty to Trade yearly to *India* for the Sum he or they should contribute; and altho' the *Old Company* would have lent the same Sum on the same Fund, and at the same Interest, yet the Parliament thought fit so far to lay the Trade open, as that every Subscriber and his Assigns should have liberty to Trade yearly for the Sum he should subscribe; however it was further Enacted, that if any of the Subscribers should be willing to Unite their Stocks, they had Liberty to do it, and to Trade in a *Joynt-Stock*; and Provision was made, that such might be incorporated, and those who did not come into the *Joynt-Stock*, whether single persons or Corporations, were to pay to the *Joynt-Stock-Company* 5 per Cent. upon the gross Sale of their Goods at the Candle (which was about 1.20 per Cent. on the prime Cost)

TH E Scheme being thus laid, the Subscriptions were soon compleated, and the principal Persons, who most clamoured against a *Monopoly*, were the first that promoted and subscribed to a *Joynt-Stock*, and by their plausible Insinuations prevailed with most of the other Subscribers to do the like, very well knowing the many and great Advantages that attended their being *Directors* and *Managers* of such a *Stock*, into which all the Contributors were drawn, excepting to the Amount of 23,000 *l.* besides the *Old East-India Company*.

BU T the said *Powell*, who by Subscription was intituled to 3,700 *l.* Stock, was one of those who did not go into the *Joynt-Stock Company*, relying on the Sanction of the *Act of Parliament*, that so long as the Company continued, His Right also would continue; Forasmuch as by the *Act* it was provided, *That the right of Trade should (for ever) continue to all the Subscribers, unless upon Three Years Notice the same should be redeemed upon Repayment by Parliament, of the said Sum of Two Millions, unto the respective Subscribers, and Contributors of the same.* *Act, Page 780.*

TH A T by the said *Proviso of Redemption*, and by the whole *Tenour of the Act*, it is very plain that no one part of the Subscribers was to be redeemed and paid off before the other, (But all were to continue 'till the Two Millions should be repaid,) much less that the Right of any one without his Consent should be given to any other of the Subscribers, without at least an Equivalent Value, which has not been done in this Case, and which he humbly hopes will be redressed by the known *Justice of the Honourable House of Commons*; and that Satisfaction will be made him for the Oppression he has lain under from the *United-Stock Company* in obstructing his Trade.

FO R altho' before the *Union of the Two Companies*, He was duly admitted to make his Entries, and Ship off his Goods in the same or succeeding Years, YET they soon set on Foot a Contrivance, how to get the whole *Seperate Stock and Trade*, into their own Hands, to which purpose they raised many Difficulties, and discouraged and delayed taking Entries, And one Year absolutely refused him his Entry, tho' duly tendred, and for several succeeding Years threaten'd to seize any Goods laden on board after the Expiration of the Year in which they were legally entred, and Her Majesties Customs duly paid, (whereby Persons have been affrighted from undertaking Voyages,) and this, as he is *advised*) is contrary to the plain-meaning and Intent of the said *Act*; for it is not to be imagined that it was the design of the *Act* that a Person who had subscribed 100 *l.* (and thereby had a Right to Trade yearly for that Sum) should be obliged to *hire or buy a Ship* every Year on purpose to carry out that Sum. But that he might do it at any time, provided he made his Entries duly, and that the Amount of his several Years Exports did not exceed in the whole what he had Liberty annually to Export.

BU T not content with putting these Hardships on the said *Powell*, the said *Company* about Four Years since, upon their proposing to advance a further Sum of Money for enlarging the Term of Years for the Trade, contrived how they might entirely deprive him of his *Right and Property*; for altho' (by Petition to Parliament) he offered to contribute his proportion, not only of the Sum advanced by the *Company*, but of any Sum whatever, and on what terms the Parliament should think fit; And when the *Bill* was brought in, whereby his Stock was to be given to the *Company* for one Quarter of it's real Value, he again petitioned the then *Honourable House of Commons*, praying to be heard to maintain his Right before the *Bill* passed, yet the *Company* had so great Interest, and prevailed so far, that he was not admitted to be heard upon his *Petition*. And it was Enacted, contrary to the first *Act of Parliament*, (as he humbly Conceives) That upon the *Companies* giving Three Years Notice, and paying to him the Original Money he subscribed (altho' His *Stock* was then above four times that Value) the said *Company* should have His *Stock* without his Consent, A N D altho' he has several times offered to let them have it upon the same Terms they have given others of the *Seperate Traders*, since the last *Act* pass'd (which is the least he had Reason to expect) YET, they have refus'd it, and have given him Notice in Writing, and by Vertue thereof expect to have his *Stock* in a short time at 100 *l.* per Cent. Wherein he is very much Injur'd and Oppress'd by the said *Company*.

TH E said *Powell* has often lent Money to the Government on Funds which have proved Deficient, and others that are fallen a Quarter part in Value of what he paid the Government, and suffered great Loss thereby, and so in this Case of his *East-India Stock*, hath run the Hazard in time of War, which might have turned to Loss; And therefore hopes he shall not be deprived of the Benefit he may reasonably expect from it in time of Peace.

WHEREFORE,

IT is most humbly hoped that the Honourable House of Commons will relieve the said Powell, By restoring to him the Benefit of the said first Act, he being willing and ready to pay his Proportion of the said Twelve Hundred Thousand Pounds and to allow Government Interest for the same from the time the United Company paid their Money; AND that he may be allow'd the future Benefit of Trade, and have leave to make his several Years Exports that the Company have prevented him to send out.

OR otherwise, *That the United Company may be obliged to allow the said Powell the same Terms for His Seperate Stock, as to Trade and Price, which they have already allow'd to others, since the passing the last Act of Parliament.*

A L L which is most Humbly submitted to the Wisdom and Goodness of this Honourable House of Commons.

Considerations

Relating to the

QUAKERS

Solemn Affirmation.

The C A S E

O F

JOHN POWELL, of London, Merchant;

Who Originally Contributed 1. 3,700 towards the Two Millions advanced on the Credit of an Act of Parliament, For Settling the Trade to the East Indies; and who was thereupon, with all the other Contributors, Nominally Incorporated into a General Society for that Trade, Exclusive of the Joint-Stock Company.

IN the Year 1698 several Eminent Merchants and others, pretending an open Trade to the *East-Indies* was most beneficial to the Nation, (especially since that Trade was so perfectly well known to the *English*;) raised great Clamours against the *Old East-India Company* for their Oppression; and to remove so prejudicial a *Monopoly*, as they Then called it, offered to lend Two Millions to the Government, on condition the Trade might be laid open, and that all persons and Corporations might have liberty to Trade yearly to *India* for the Sum he or they should contribute; and altho' the *Old Company* would have lent the same Sum on the same Fund, and at the same Interest, yet the Parliament thought fit so far to lay the Trade open, as that every Subscriber and his Assigns should have liberty to Trade yearly for the Sum he should subscribe; however it was further Enacted, that if any of the Subscribers should be willing to Unite their Stocks, they had Liberty to do it, and to Trade in a *Joynt-Stock*; and Provision was made, that such might be incorporated, and those who did not come into the *Joynt-Stock*, whether single persons or Corporations, were to pay to the *Joynt-Stock-Company* 5 per Cent. upon the gross Sale of their Goods at the Candle (which was about 1. 20 per Cent. on the prime Cost)

TH E Scheme being thus laid, the Subscriptions were soon compleated, and the principal Persons, who most clamoured against a *Monopoly*, were the first that promoted and subscribed to a *Joynt-Stock*, and by their plausible Insinuations prevailed with most of the other Subscribers to do the like, very well knowing the many and great Advantages that attended their being *Directors* and *Managers* of such a Stock, into which all the Contributors were drawn, excepting to the Amount of 23,000 l. besides the *Old East-India Company*.

BU T the said *Powell*, who by Subscription was intituled to 3,700 l. Stock, was one of those who did not go into the *Joynt-Stock Company*, relying on the Sanction of the *Act of Parliament*, that so long as the Company continued, His Right also would continue; Forasmuch as by the *Act* it was provided, *That the right of Trade should (for ever) continue to all the Subscribers, unless upon Three Years Notice the same should be redeemed upon Repayment by Parliament, of the said Sum of Two Millions, unto the respective Subscribers, and Contributors of the same.* *Act, Page 780.*

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W H E R E F O R E,

IT is most humbly hoped that the Honourable House of Commons will relieve the said Powell, By restoring to him the Benefit of the said first Act, he being willing and ready to pay his Proportion of the said Twelve Hundred Thousand Pounds and to allow Government Interest for the same from the time the United Company paid their Money; AND that he may be allow'd the future Benefit of Trade, and have leave to make his several Years Exports that the Company have prevented him to send out.

O R otherwise, *That the United Company may be obliged to allow the said Powell the same Terms for His Seperate Stock, as to Trade and Price, which they have already allow'd to others, since the passing the last Act of Parliament.*

A L L which is most Humbly submitted to the Wisdom and Goodness of this Honourable House of Commons.

THE
CASE
OF

JOHN POWELL of *London*, Merchant, relating to
the Hardships he Suffers from
the *United East-India* Com-
pany.

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T H E
C A S E

*Of some Thousands of the People called QUAKERS,
in Great Britain, who Conscientiously Scruple the
present AFFIRMATION.*

WE Desire, with *Great Humility*, to Represent to the *Legislature*, That many of Our Friends in divers Parts of this *Kingdom*, have long Laboured under *Great Difficulties*, by Reason of some Words in the *Present Affirmation*: And that it is now become more necessary for Us, than it hath been heretofore, to Apply for Relief; because the late Act for laying a Duty upon *Hides*, &c. (which requires the taking of an *Oath*, or the *present Affirmation*) hath already been the Occasion of the *Ruin* of some, although they have Paid the *Duty*, without *Fraud*, to the *Proper Officer*; and apparently tends to the *Ruin* of many more, who Trade in those Commodities, and cannot Use the *Affirmation*.

Because in the *present Affirmation*, We are Obligated to mention the *Sacred Name* of ALMIGHTY GOD; for whose *Name* We have so *Great* and *Anful* a Reverence; that We *Conscientiously Scruple* to Use it in Cases of *Evidence*, &c. Conceiving it to be of an *Higher Nature* than the Simplicity of *Yea, Yea*, and *Nay, Nay*, which Our Blessed Lord and Saviour JESUS CHRIST Commanded His Followers to Observe instead of an *Oath*: That Simplicity We are afraid to exceed: Believing also, Our LORD in this, as in other Cases, designed to Exalt the *Veracity*, and *Righteousness* of the *Gospel*, far above that of the *Law*.

We beg Leave to Say, That We Apprehend the Granting Our Request, will neither make the *Government*, nor any *Person* We Deal with, less *Secure*: For We believe Our Selves as firmly Bound in *Conscience* to speak the *Truth*, as any others esteem Themselves Oblig'd to Swear the *Truth*; and also, liable to as *Severe Punishment* from the *Great and Just* GOD, if We Affirm *Falsly*, as they are who *Forswear Themselves*. And We willingly submit to the same *Penalties*, if ever any of Us should *Falsifie* Our Words, which are now by *Law* Inflicted in Cases of *Perjury*.

And Permit Us to add, The Indulging Us herein, may be for the *Benefit* of Our *Fellow-Subjects*, who are not of Our *Perswasion*; since many of Our Friends, before they were *Quakers*, have been Witnesses in *Matters of Importance*, to *Deeds*, &c. And if the *Affirmation* be not made more *Easie*, those who cannot take it, will not be admitted to give their *Evidence* in any Courts of *Judicature*, which may tend to the *Damage* of many who may stand in need thereof.

Wherefore, for Our Relief; and also for the sake of those who may want Our *Evidence*: We Humbly Intreat, That such an *Affirmation* may be Granted Us; wherein the *Sacred Name* of GOD may not be Used: And that the *Benefit* thereof may be made *Extensive* to Our Brethren in NORTH-BRITAIN, who are Generally under the *Dissatisfaction*, and some of them under *present Suffering*.

**THE
QUAKERS CASE**

Relating to an
Affirmation.

A

S P E E C H

Made in the
House of Commons,

UPON THE

*Late Ministry's forcing a New Charter upon the Town
of BEWDLY, in the County of WORCESTER, with-
out a Surrender of the Old.*

Mr. SPEAKER,

I Did not intend to have troubled you this Session, and I believe it will be to little Purpose now: For if a Gentleman stands up to complain of Grievances, although this House meets in order to redress them, he is represented as a Person that obstructs HER MAJESTY's Business; if he finds fault with the Ministry, he is said to reflect upon the QUEEN; if he speaks against the Continuance of the War, to prevent the Beggary of the Nation, to prevent the Money'd and Military Men becoming Lords of us who have the Lands, then he is to be no Object of HER MAJESTY's Favour and Encouragement. This, Sir, is the Pass we are brought to, and this is the Freedom of Speech you are pleas'd to ask for at the Opening of this Session, and which of right belongs to every Member of this House. I remember the Time, when such Restraints as these, would not have been suffer'd or endur'd; but we are under Arbitrary Ministerial Power; and if ever there was an instance of it, it's in this that's now before us: But how great ~~for~~ the Discouragements are to Freedom of Speech, I think my self oblig'd, as an *English* Gentleman, who never will comply with an Arbitrary Ministry; as a Member of this House, who has been always zealous to support the Constitution of Parliaments; as a Neighbour to this Borough in the Case now before us, to speak my Mind with that Warmth I us'd to do, when the Liberties of my Country, or any part of it seem to be touch'd. For though the Injury may be felt by one single Man, or one single Society of Men; yet the Terror, the Concern, and the Consequence of it, reaches unto all. We have had a Fact this Day of dangerous Tendency laid before us, of a New Charter forc'd upon an Ancient Corporation, at the single Instance of a Noble Lord, without a Surrender of the Old, contrary to Law, to Reason, and the Rights of the Members thereof; which they refus'd to accept, as being inconsistent with their former Charter of King *James I.* and, as they conceiv'd, void in it self; since it's impossible for two Charters, any more than two Grants, or two Leases, to have a being at the

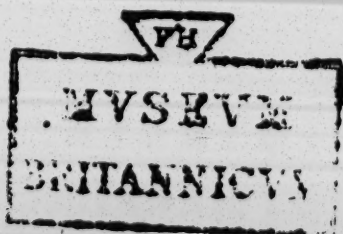
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same

same time. Ever since the Revolution, every thing has been transacted in this Corporation, pursuant to the Charter of *James I.* the Right of the Bailiff and Burgesses, affirm'd by Judgment in the *Queen's-Bench*, until this New Corporation was erected by this unprejudiced Charter, which the Old was so far from consenting should pass, that they oppos'd it, by entering Caveats in all the Offices, and by shewing that it was contrary to HER MAJESTY's Intention, express'd in the Warrant.

Thus, Mr. Speaker, have you seen the Prerogative enlarg'd and extended farther, I will be bold to say, than it was in the unhappy Reign before the Revolution. Every Gentleman remembers how highly things of this nature were resented in K. *James's* time, when Court Arts were us'd to wheedle and terrifie Burroughs into a Surrender of their Charters, and when they found that Method would not do, they endeavour'd to take them away under Colour of Legal Process, by bringing *Quo Warranto's* against them: this was then thought dangerous to the Constitution; and very well it might, for the People of *England* could expect no other fruit from such a Proceeding, but that this House would be fill'd with Men of the Army, with Men of broken and desperate Fortunes, with Pensioners, with Vassals of the Court, with Slaves of the Ministry, and with all those servile sort of Gentlemen, that can give with one Hand to receive with the other, and thereby betray those they represent to Arbitrary Power: But this Instance now before us, is more new and dangerous, than taking away Charters by Surrender or *Quo Warranto's*, those Methods made some Noise, alarm'd the free People of *England*, and you see what came of it. But this is a quicker, a more silent Method of doing it, which, like white Powder, destroys the Liberty of the People, and subverts the Constitution of this House without Noise or Notice. I beg, Gentlemen, you would consider all the Circumstances with which this Charter was attended, and I am sure, you can't reflect upon 'em without Grief. First, as to the time, You have heard, Sir, how the Great Seal of *England* was affix'd to this Charter, upon the 22^d of *April* 1708, the very same Day there was an order made in Council to issue out Writs for calling this Parliament; in this critical Juncture, was this Corporation erected, I will not scruple saying, to serve the Arbitrary Designs of those who are afraid of a free Election, who are afraid of a free and uninfluenc'd Parliament: such a Parliament would scorn to flatter Great Men, would enquire into Miscarriages, and punish such as were faulty, would call those Ministers to Account who should prevail with the QUEEN to turn Men of Ability and Consideration out of Place and Employment, for acting upon Principles of Honour and Conscience, and doing their Duty in this House. Another evil Consequence with which this Charter is attended, is, That so many new Electors, and a new returning Officer are created by it to the Infringement of the Liberty of the Subject, and making all Elections, in a manner, depend upon the Will of the Prince. I hope, Gentlemen, you will seriously consider this matter, that you will lay aside all Thoughts of Party in this Cause; for if it be in the Power of the Crown to dissolve old Corporations and erect new, in so exorbitant a manner, we may bid adieu to Liberty and Property, and to all that has cost us so much Blood and Treasure to maintain and defend; there will be no difference then between a Parliament of *Great-Britain* and a Parliament of *Paris*.

I hope, once more, Gentlemen, you will seriously consider how much the Honour and Justice of this House is concerned in the Determination of the Case now before you: The Eyes of the People have been for some time opened, they will observe, they will judge of our Votings in this Cause, and do expect from us, as we have put a stop to unjust and exorbitant Power abroad, that we should neither suffer nor endure it at home.



516 m 18 90

The PETITION that was presented by the *Sailors Wives*
to Her Majesty, and the Honourable House of Commons,
for their Husbands Pay. Together with her Majesty's
ANSWER thereto.

Most Humbly Sheweth,

THAT Your Honours most Miserable and Poor Petitioners, have many of them three Years Pay, other four Years, and so Gradually on to seven Years and upwards due and unpaid to Your Petitioners Husbands, who have faithfully served her Most Excellent Majesty in all her Wars both against France and Spain, and for want of their Wages, they and their Children are reduced to a starving Condition, nay, what is a great shame to all Christian Nations, several others have actually perish'd and were starv'd to Death for want of sufficient Sustainance to support them in their greatest Necessity.

Besides Your Honours Petitioners Necessities are so pressing by reason they can have no Credit from any Person or Persons, by reason a late Act of Parliament was Ordain'd, that no Sailor shall be arrested for any less Sum than twenty Pounds; and many of them are turned out of their Habitations, that they must inevitably be quite starved; and that which adds mightily to their great Affliction, 'tis reported about the Town, that they must be Obliged to loose three Years of their Husbands Pay, which will not only be a great hardship on them should it take Place, but it would inevitably be their utter Ruin to all Intents and Purposes.

That Your Honours Petitioners having but newly heard what Eminent things Your Honourable House have done for Restoring the Publick abuses in the Victualling and the Brewery, Custom House, and other Officers, humbly hope Your Honours have not quite forgot to take into Your Serious Consideration the Debts of your poor Servants the Seamen that have to the utmost of their power ventur'd their Lives to rescue this Kingdom from Popery and Slavery and Arbitrary Government, but also from all Antimonarchical Schemes and Whiggish Oppression and Faction.

They humbly beg Your Honours will be pleased to Order some present Assistance, or beseech her Majesty to supply their pressing Necessities which will be one means to relieve them and their children from a starving Condition.

And your Honours Petitioners, as in Duty bound, shall ever pray.

A List of some of the Names of the many Ships, that are in Arrears of their Wages, and how much is due to 'em.

T HE <i>Dunkirk</i> near 7 Years Pay	The <i>Faulkland Pinck</i> 4 Years, a taken Ship.	The <i>Defiance</i> 5 Years, and the men turn'd over
The <i>Kingston</i> 5 Years pay,	The <i>Faulstone</i> 2 Years,	The <i>Suffolk</i> 3 Years,
The <i>Lew</i> 4 Years 9 Months,	The <i>Swistakes</i> 3 Years,	The <i>Sheerneft</i> 3 Years.
The <i>Kingale</i> 2 Years 9 months	The <i>Montacute</i> 3 Years,	The <i>Tilbtrie</i> 3 Years gone to the East-Indies
The <i>Linnox</i> six Years, the men turn'd over to the <i>Boyne</i> and sent to the Straights, the Officers and discharged men paid nine months ago.	One Woman her Husband belonging to the <i>Salisbury Prize</i> , taken the 6th of Nov. 1710. but she had not the money, the <i>Clarks</i> looting the Order, she is now ready to Starve.	The <i>Royal Sovereign</i> a Year.
The <i>Lancaster</i> almost 4 Years,	The <i>St. Albans</i> 4 Years 9 months.	The <i>Siafort</i> 5 Years.
<i>Grey-bound</i> 4 Years 4 months,	The <i>Swistakure</i> 4 Years.	The <i>Cambridge</i> 3 Years.
The <i>Plymouth</i> above 3 Years,		The <i>Hunter Fire-ship</i> 3 Years pay and turn'd over the <i>Warsprite</i> .
The <i>Gapsy</i> 3 Years,		The <i>Faulken</i> 3 Years.
		The <i>Pinck</i> 3 Years.

Her Majesties most Gracious Answer to the poor *Sailors Wives* Petition.

Having with unexpressible Regret took the sorrowful Petition of these Poor Women and their Distressed Children into my Royal Consideration, there is nothing more nearly touches My Pity and Compassion than their Miserable Condition, who Complain of their being starv'd, altho' their Husbands are in my Naval Service. Their Affliction to be sure I must impute to the Mismanagement of my Officers, but as it was ever my greatest Glory under Regal Power to right all Subjects, and alleviate their Grievances, it is my Will and Pleasure, to signify to You, the Gentlemen of the Honourable House of Commons, that ye will be peased, before this Session of Parliament concludes, to state the deplorable Case of these miserable Petitioners among you, by examining into the Accompts of the Navy, whereby my Men of War may be paid off with Expedition; and where and Defect is found among the Officers of the Pay Office, or those commanding at Sea, nothing shall protect them from Justice, in order for their condign Punishment; and in the mean time to consider on some speedy ways and means to relieve the poor Petitioners at present.

London: Printed by W. Wright in St. Pauls Church-yard.

THE HISTORY OF THE UNITED STATES OF AMERICA

The first part of the history of the United States of America is the story of the discovery of the continent by Christopher Columbus in 1492. This was followed by the settlement of the eastern coast by the English in the early 17th century. The second part of the history is the story of the growth of the colonies and the struggle for independence from Great Britain in 1776. The third part of the history is the story of the early years of the new nation, including the drafting of the Constitution in 1787 and the early years of the Republic. The fourth part of the history is the story of the expansion of the United States into the western territories, including the Louisiana Purchase in 1803 and the Mexican War in 1846. The fifth part of the history is the story of the Civil War in 1861-1865, which was a turning point in the history of the United States. The sixth part of the history is the story of the Reconstruction period in the 1860s and 1870s, and the seventh part is the story of the Gilded Age in the late 19th century.

The eighth part of the history is the story of the Progressive Era in the early 20th century, and the ninth part is the story of the World War period in the 1910s and 1920s. The tenth part of the history is the story of the Great Depression in the 1930s, and the eleventh part is the story of the World War II period in the 1940s. The twelfth part of the history is the story of the Cold War in the 1950s and 1960s, and the thirteenth part is the story of the Vietnam War in the 1960s and 1970s. The fourteenth part of the history is the story of the Watergate scandal in the 1970s, and the fifteenth part is the story of the Reagan Revolution in the 1980s. The sixteenth part of the history is the story of the Clinton years in the 1990s, and the seventeenth part is the story of the Bush years in the 2000s. The eighteenth part of the history is the story of the Obama years in the 2010s, and the nineteenth part is the story of the Trump years in the 2020s.

The twentieth part of the history is the story of the future of the United States of America. This part of the history is still being written, and it is up to us to decide what the future of our country will be. We must continue to work for a better future for all of our people, and we must continue to uphold the values of freedom, justice, and equality that are at the heart of our nation.

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THE
SAILORS GARLAND:
OR THE
TICKET BUYERS Lamentation.

To the Tune of CHEVY CHASE.

GOD prosper long our noble King,
His Fleet and Sailors all;
And grant that they their Pay may have,
And Pride may have a Fall.

Where Courage stout and noble Blood
Within the Heart doth reign,
There Pity soft for others Woes
Doth pant in every Vein.

Our gracious King by Pity moved
To do his Sailors Right,
To Parliament did recommend
Their sad and woful Plight.

A Usurer in *Lothbury*,
A *Jew* of high Renown,
Hearing the Sailors would be paid
Strait hasted up to Town.

All in his Hall the Clerks amazed
And Agents frightened fore
Adieu—cried out For—ty *per Cent*,
Adieu—for eyermore.

The *Jew* he sighd—alack my Head
And Heart it acheth much!
But hold, says he,—I've got it now,
Pray tell me—won't they touch?

What pay the Navy all—d' you say?
Sure that can never be,
For then much greater Men must lose
Their Trades as well as we.

A Sanhedrim we straight must call
Upon a Thing so new:
Go summon all, Great *Shiloch* first,
He's trusty and true blue.

While yet he spake, lo at the Gate,
The Head of all the Tribe,
Shiloch appear'd, the most expert
At Counsel or at Bribe.

His Chatter and his Laugh so loud
Was heard quite to the Door,
His Belly of enormous Size
Came strutting in before.

Soon tawny *Shadrach* plodded in,
Whose Face and Wig contend
Which in their Hue most like shall be
To *Belzeebub* the Feind.

Shadrach from Father circumcis'd
A Wight descended sure,
Either from *Abraham* the *Jew*,
Or *Ismael* the *Moor*.

I stopt, quoth he, by Precedent
The Pinch-gut halfpenny,
Tho' Tars on short Allowance starv'd,
And better they than we.

From *Tower-hill* with hang-dog look
Came one would move your Pity,
What no more Tickets, Sir, said he;
'Twill ruin our trading City.

Quoth *Shiloch* with a Grin, my Friends,
When Ships to *Greenland* sail,
They dexterously throw out a Tub
To fool the mighty Whale.

Prompt Payment publickly to blame
May prove a dangerous Scheme,
Another Project we'll propose
For to direct the Stream.

Something be sure must needs be paid,
Let's give them two Months certain:
The other four, you Friends shall share
—With me behind the Curtain.

Their Wages too we must advance
Some Shillings Augmentation:
What tho' it Freightage should destroy,
That only hurts the Nation.

As toasted Cheese the Mouse allures
Within the Trap to venture,
Such Bates as these will surely make
The heedless Seamen enter.

When once they're caught, we'll turn 'em o'er
For ever and for ay,
They'll then be Volunteers for Life,
And we'll divide their Pay.

Whilst *Cent per Cent* our Friends can gain
We are sure of being courted,
Nor can the Sailors well complain,
For they will be transported.

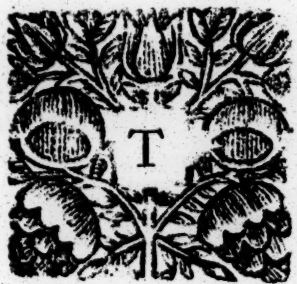
But these their Plots we know
Will all to nothing bring,
Then Sailors may throw up
And cry God save

516 in 18
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To his most Sacred Majesty King George
King of Great Britain, France, and
Ireland: by the Grace of GOD, Defender
of the Faith. And both Houses of Par-
liament &c.

THE Humble Petition of Andrew Stevens, a Ser-
geant in the Royal Regiment, Commanded by
the Honourable Lieutenant General Semore.
Thomas Shaw: humbly shewing, the Wrongs and Injustices
done to your Majesty and Government, by several False
Musters, both by the Living and Dead; in Captain Sedgley's
Company of Invalids in Colonel Feildings Regiment,
as shall be made Appear on Examination.

Humbly Sheweth,



H A T your poor Petitioners did lodge our several Affidavits in the War-Office, on the 7th, Day of October 1724. in the behalf of your Majesty and Government; and laid our hard Case before your Majesty several Times, to which your Majesty was pleased to give a most Gracious Answer. But still your poor Petitioners are kept from any manner of Justice, and are counted the worst of Men: in offering to lay before your Majesty, the most Vile Practices of these Unworthy Officers, who in defiance of all Law and Justice; do daily wrong your Majesty and Government. In Detecting of which, your Petitioner Andrew Stevens, was Assaulted within the Verge of your Majesty's Court; by Lieutenant Colonel Alexander Gordon, on the 9th, Day of May 1726. who doth still stand in Justification of these Unjust Officers. And that your said Petitioner hath all along duly attended the War Office for Justice, but can find none, for the Secretary of War said, that these two Men undermentioned were allowed upon his Warrant; (for which your Petitioner cannot find any Precedent, as a Man to be taken from his Grave, and put on the Muster Role, as Samuel Hitchcock was for 4 Years and upwards,) and another Living Man for two Years and odd Months, with several more, as shall be made to appear on the Examination of your Petitioners.

James Allan, in Capt. Sedgley's Company: Received but 9 Pounds, for Six Years Service, of Henry Brown an Usurer, who would give Him no more, because he would not Connive with the rest of the Knaves of Chealsey.

John Palmer, in Capt. Twinioes Company, which had but 5 Pounds Ten Shillings for 3 Years Pay, for the poor Man could get no more, and the Villianous Usurer thank'd God he had done so well with Him.

Alexander Agnew, formerly a Sergeant in Sr. Thomas Pendergrass's Regiment. was Commanded as private into Capt Sedgleys Company, and after very bad Usage; left the said Company, and Entered Himself in the 3d, Regiment of Guards, where he served between 4 and 5 Years, and was then return'd to the Royal Hospital again but could not be Excepted.

John January, of the said Company, after 3 Years and 5 Months wanting, came to his Respective Command and receiv'd his Musters, and did his Duty; for which the said Capt. Sedgley gave him an old Coat for 4 Years Mounting, and further, made him Pay 4 Shillings for a Pair of Shoes, and 3 Shillings 6 pence for a Shirt, and when he Demanded the Bread He had Fought for, the said Capt. bid him go to Mr. Ares for Money and Cloathing for He had none for Him; which was the cause of the said Mans Deserting.

And Further to Blind General Wills in the year 1724. Capt. Simmons, Mustered three Town Porters, Viz Andrew Hasell, John Daniel, and William Hagins; in the Room of Invalids Soldiers.

William Treuter, was Mustered in the said Company, from the year 1719. to the year 1725. and then discharged from the said Company in order to be Received at Chealsey, but could not, upon the said Capt. Discharge.

Thomas White, in Capt. Earls Company in Carlisle; For standing in the Justification of your Majesty's Government, without any Just Hearing or Regular Court Martial, was Whipt, and turn'd out; and afterwards sent to Portsmouth, by Lieutenant Colonel Gordon: to pass the Review, in the year 1725. In Capt. Stroud's Company, in Colonel Feildings Regiment of Invalids, and the poor Man had a Crown to carry Him down, but Half a Crown to bring Him up again.

WEE your poor Petitioners, Humbly P.
Mell S

T H E
Humble Petition

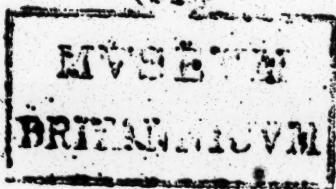
OF

Andrew Stevens

AND

Thomas Shaw,

In the Behalf of themselves and others.



The CASE of the Merchants, and Planters, Trading to, and Residing in, Virginia, and Maryland.

THE high Custom of Six Pence and one Third of a Penny p^r Pound, on Tobacco for the Home Consumption, has by many Years Experience been found much more than it can bear; the Planters and Merchants ~~Adventurers having often lost Fifty p^r Cent.~~ and sometimes more than their Capital, the Produce not being sufficient to defray the Custom, Freight, and other Charges; so that without some timely Relief, this Trade must inevitably be lost to *Great Britain*.

As the Distance of our *British* Plantations is an Improvement of our Navigation, so of Necessity it becomes a Charge on our Tobacco, and has given great Encouragement to the Planting of vast Quantities of that Commodity in *Holland, Germany, &c.* to the Improvement of their Lands and Benefit of the Proprietors, who supply many Parts of *Europe*, to the Decay of our Plantations, Trade, and Navigation; and unless such Encouragement be given to the Exporters of Tobacco, as may enable them to render it very cheap at Foreign Markets, and thereby in great measure prevent the Planting in *Europe*, this beneficial Trade will in a few Years be irretrievably lost, and our Nation oblig'd to pay Specie for Linnen, and all other the Manufactures of *Holland, Germany, Sweedland, &c.* that us'd to be purchas'd in those Parts with the Proceed of our Plantation Tobacco.

In order to render our *American* Tobacco cheap in Foreign Markets, it's humbly propos'd, that on Exportation the remaining Moiety of the old Subsidy being one Half-penny p^r Pound, be drawn back in like manner as all the other Duties now are.

The present Customs on Tobacco are, viz.

The Old Subsidy always paid down	1 d. p^r Pound.
Additional Duty payable at Nine Months	1
Impost Duty payable at Eighteen Months	3
New Subsidy payable at Three Months	1
Additional Subsidy payable at Nine Months	0 $\frac{1}{3}$

All the Duties amount to 6d. $\frac{1}{3}$ p^r Pound.

Tho' the Bonds given for the Duties aforesaid are payable at several times, yet it hath been the constant Practice ever since the Restoration, till of late Years, not to demand the Money for any of them, till the time allow'd by Law for Exportation expires. And it's therefore humbly hop'd it may be Enacted, That all Bonds for the several Duties on Tobacco be made payable at Eighteen Months from the Merchants Entry; for should they be prosecuted (as they have Reason to fear) for part of the Duties, at the End of Three, and Nine Months, it would unavoidably force all the Traders in Tobacco immediately to export the same, that their Debentures may be finish'd in time to discharge their Bonds without paying Interest thereon; this will make *Holland* the general Mart for our Tobacco, and by such hasty Exportations, Foreigners will reap the Benefit of our Plantations more effectually than if they were their own.

The Indulgence from the Legislature, in granting Eighteen Months for Exportation, in lieu of Twelve formerly allow'd, we humbly

was design'd in favour of our Plantations, that Foreign Markets might by Degrees be supply'd with our Tobacco, to the Advantage, and not Ruin of the Proprietors, who at present are necessitated to sell their Tobacco in *Holland* for less than the Freight and Custom.

The Discouragements of late Years have already ruin'd several considerable Merchants, oblig'd others to decline trading in Tobacco, and forc'd many of the Planters in *Virginia* and *Maryland* upon Manufactures, wherein they are already such Proficients, that several Counties make Shoes, Stockings, Hats, Linnen and Woollen, not only for their own, but for the Use of their Neighbours; others sow Corn, which hath been sent from the Plantations in great Quantities to several Parts of *Europe*, and Necessity will put them annually upon many Expedients to become less Dependant on this Kingdom.

To Conclude; The melancholy State of our Tobacco Plantations is such, that for several Years past, the Exports of our Woollen and all other Manufactures to *Virginia* and *Maryland*, are diminish'd, at least one half, the Traders thereto greatly impoverish'd, the Planters by Necessity falling into Manufactures, the Navigation of this Kingdom consequently lessen'd, and notwithstanding the several high Duties laid on Tobacco, the Revenue hath not been thereby augmented.

It's therefore humbly hop'd this Honourable House will not only lower the Duties on Tobacco for the Home, and Foreign Consumption, but give such other Relief in the Premises, as in their great Wisdom shall be found necessary.

The CASE of the
Merchants, and Planters,
Trading to, and Residing
in, *Virginia*, and *Maryland*.

1. Cr of much b. Truss in London

2. Cr of much b. Truss in London

~~3. Cr of much b. Truss in London~~

~~4. Cr of much b. Truss in London~~

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30. Cr of much b. Truss in London





A TRUE
STATE OF THE CASE,
In reference to the right of the
CORPORATION
OF
TRINITY-HOUSE
TO THE
BALLAST-OFFICE.



That the Ballast-Office was in the possession of the Earl of Nottingham, Lord High Admiral in the time of Queen Eliz. by Letters-patents, and in the 36th. of Queen Eliz. the said Lord High Admiral taking notice how convenient it was that the execution of this Office should be put upon the Trinity-house, they being the most experienced persons in Navigation, and best able to provide for the security thereof, and also that the profits arising out of the said Office, might be settled as a Revenue upon the said Corporation, for the relief of poor decayed Sea-men, their Widows and Children.

The said Lord High Admiral surrendered the said Office unto the Queen, with exprefs caution and request, that her Majesty would settle the same upon the Corporation of Trinity-house, and their Successors for ever.

That in the 36th. of Eliz. the said Office was granted under the Great Seal of England, to the Trinity-house, and their Successors for ever, as of the Mannour of East-Greenwich.

Vide a
Deed of
Surren-
der upon
Record.

Vide
Letters
Patents
under the
Great
Seal.



If it be objected.

That King *James* and his late Majesty of Glorious Memory, made several grants of the said Office, notwithstanding the Grant of Trinity-house.

There was never any grant made of the Office, either by King *James*, or his late Majesty, only some Projectors under pretence of a new devised Engine, and also of a great yearly Rent of a 1000. marks which never was paid, got a Patent in the 12th. year of his late Majesty, to take up Ballast out of the River, which the Trinity-house permitted then to do, having made an agreement under a yearly Rent, with Trinity-house, to use the said Engines Ballast for a certain time, nor indeed could they otherwise exercise the said Patent, for that his Majesty intended not by the granting thereof, that they should put this said project in execution, whereby they should in the least prejudice the Grant of Trinity-house, as appears by a special Proviso in that very Patent of the 12th. of his late Majesty.

Vide Pa
t nt 12.
Carol.

If it be objected, that the Office granted to the Trinity-house, is only the Supervision of the Ballast, as to Goodness and Tonnage, and that the real Ballasting, is still in the King, and the rather for that the most of the Ballast is taken out of the River of Thames, which is the Kings proper soil, and is not granted in the Letters-Patents to Trinity-house.

1. **T**he Law takes notice only of one Ballast-Office.

2. That Office is granted to Trinity-house, with the Lading and Ballastage of all, and all manner of Ships whatsoever in express words; But besides, the Office is not the supervision only, but the real Ballasting of all Ships, the Statute of 27th. H. 8. directing positively, that Sir *Thomas Spert*, and such as after him should hold the said Office, should take part of the Ballast which they should lay on board Ships betwixt *Richmond* and *Greenhith*, (where note,).

Vide Deed of Surrender upon Record. 2 de- in High of That the Ballast-Office is to make provision of the real Ballast, as well as to supervise the Goodness and Tonnage.

3. The Trinity-house hath the same Office which the Lord Admiral *Nottingham* enjoyed. That the Lord Admiral *Nottingham* enjoyed the Office of Ballast, and the Ballasting of all, and all manner of Ships appears by a decree in the High Court of Admiralty, 34th. of *Eliz*.

That the said Lord Admiral surrendered the said Office and Ballasting of all, all manner of Ships appears by the Deeds of Surrender upon Record to *Eliz*.

That

That Queen *Elizabeth* upon that Surrender, grants the office of Ballast^{27. Hen. 8.} and the Ballasting of all, and all manner of ships to *Trinity* house, appears by the Letters patent under Seal.

4. As to the soil of the River, although the same be not granted in expresse words in the Patent to the *Trinity-House*, yet the Statute of the 27. of *H. 8.* doth not only grant the *Ballaster* a liberty, but enjoynes the *Ballaster* under penalty to take *Ballast* out of the River of Thames; and it is a part of his office so to do, in order to the cleansing of the said River; and so no need to be granted in expresse words in the Patent.

5. Besides if the Queen (or his present Majesty) had or should make a grant^{27. Hen. 8.} of the soil of the River of Thames; such a grant could not refrain the *Ballaster* from taking *Ballast* in the Thames, it being a duty laid upon the office by Statute-Law under pennaity.

6. Such a grant of the Soil could not impowre any person to *Ballast* Ships with such soil, because the Office of *Ballasting* all Ships is in the *Trinity-House*.

7. Such a grant of the soil of the Thames would be void and null in it self: For by the Statute of 27. of *Hen. 8.* it is provided, that it shall be lawfull for any man to take Gravell and sand out of the Thames, without the let of any person, or without paying any thing for the same.

Reasons humbly Offered against Montjoyes Patent.

1. **T**He Patent made to *Trinity-house* in the 36. of Queen *Elizabeth*, is the Senior Patent, and ought to stand good against the Patent granted to *Montjoy*, &c. untill it be made void by Law.

2. The patent granted to *Montjoy*, and taking no notice of the patent to *Trinity-house*, and being obtained also upon a false suggestion. viz. That the *Ballasting* of Ships was in his Majesties power to grant (when in truth it was not) the said patent to *Montjoy* is void even by the common Law.

3. That there being a Rent reserved in *Montjoyes* Patent, with an expresse proviso, that if the Rent should be behind and unpaid by the space of twenty one dayes after the time limited for payment, the same should be void and null: And forasmuch as no rent was ever paid, or at least not one peny after the first year; the said Patent is not only legally, but actually void, as if no such Patent had ever been.

4. The said patent to *Montjoy* was illegall, and a grievance, and was so adjudged in Parliament Anno 1640. upon the petition of of the City of *London*, as also of the Merchants, Owners, and Masters of the Ships, and was never since put in execution.

1. It was illegall, in that it granted the fines and Forfeitures of penall Law for Nufancies and trespasses committed upon the River of Thames; the

ting whereof, by patent or otherwise, before judgement is directly against Law, and tended to destroy the Jurisdiction of the City of *London*; the punishment of which offences, hath been vested in the Lord Mayor and City of *London* as conservators of the Thames for more than 200 years.

2. It was illegall, in that it granted the Ballasting of Ships against the ancient Right of the Corporation of *Trinity-house*.

3. It was illegall, in that it granted the Gravell, sand, and soil of the River of Thames, contrary to an Act of Parliament of the 27. of *Hen. 8*.

4. The negative words that none should take any *Ballast* but of *Montjoy*, and others the Patentees, is against Law in it self, there being no grant of the office of Ballast to these Patentees, contrary to the custome which created the office at first.

5. The Patentees are all dead, and *Montjoy* the surviving Patentee left no Executor, nor hath any Administrator.

Obj. *If it be objected that Montjoy assigned his interest in his Life time.*

Answer. **T**Hat the Corporation of *Trinity-house* being ever since the year, 1648. interrupted for their Loyalty to his late Majesty, the said *Montjoy* and his pretended Assignes taking advantage thereof, petitioned *Oliver Cromwell* for a new patent in the year, 1655. and by their contrivance a new patent was granted, and the said Assignes accepted of a some of monies for their pretended right, and delivered up their patent, and that is the reason they cannot produce their patent under Seal.

2. That some persons pretending a right to *Montjoy*'s patent, did lately endeavour to set up that patent against the patent of *Trinity-house*; although in truth that very patent doth expressly say it ought not to prejudice the right of *Trinity-house*, and the cause coming before the House of Lords, after severall Hearings by Counsell learned on both sides, the possession was quieted in *Trinity-house*, untill they should be evicted by due course in Law.

Die Mercurii Decimo tertio Junii.

UPon report of the Lords Committees for Petitions concerning the Titles of the Master, Wardens, and Assistants of the Trinity-house at Deptford-strand, and of the Executors and Assignes of William Montjoy Esq; deceased, to the office of Lastage and Ballastage, and the settling the possession thereof: It is ordered by the Lords in Parliament assembled, that the said Master, Wardens, and Assistants shall be, and are hereby settled in the possession of the said Office of Lastage and Ballastage of all Ships whatsoever, lying between ~~LONDON-bridge~~ and the main Sea Eastward, according to their Patent, untill the title to the said Office shall be determined by Law: They, the said Master, Wardens and Assistants, having first given personal security to Jo. Brown Esq; Clerke of Parliament, and Henry Barker Esq; Deputy-Clerk of the Crown, to be answerable for the mean profits of the said Office, in case the said Masters, Wardens, and Assistants shall be ejected by due course of Law, and to the end that no unnecessary trouble or delay may be put upon any Ship, or other Vessel. It is further ordered, that immediately upon payment of the accustomed duties belonging to the Ballast-Office, unto the said Master, Wardens and Assistants, or their Deputy, the said Master, Wardens and Assistants, or their Deputy, shall make Certificate, that payment is made accordingly; without which Certificate, it shall not be lawfull for the respective Officers in the Custom-house, to give forth Cocquets, Contents and other discharges unto any Ships or Vessels whatsoever, untill the said Title be determined as aforesaid.

Jo. Brown Cleric. Parl.

B

Reasons



*Reasons for not Reversing the Order of the Lords in
Parliament assembled of the 13th. of June, 1660.*

1. **I**T would be highly derogatory to the Honour of the House of Peers, after so many solemn hearings and debates of Learned Council on both sides, to reverse the said Order; The Corporation of Trinity-house, having given security in 10000 l. and in all things executed the said Order, especially there being no mutation in the State of the Case.

2. It would be destructive to the Corporation of Trinity-house, who seek no private advantage, but only the good of poor decayed Sea-men, their Widows and Children, whose Trustees they are, they having made Provision of Ballast, Wharfs and Lyters, upon the credit of this Order, to the vallue of severall thousands of pounds.

3. It would occasion a multitude of vexatious suits in Law, by reason of severall contracts made in relation to the business under great Penalties.

4. It would prove the certain ruine of many poor Families, there being above 900. persons who are in contract for this business, and whose livelyhood depends upon their labour therein.

5. It would prove a great discouragement to Navigation, in as much as it hath been ever heretofore greatly commended for, to continue the Office of Ballast in the hands of the Corporation of Trinity-house, who are persons of the greatest experience and knowledge in the preservation, as well as in the necessary accommodation of Ships in the River of *Thames*, not having any private gain or advantage to themselves therein.

6. In so much as the Order directs a triall at Law, and that the Pretenders to *Montjoye's* patent have already begun a sute, and have declared in Law: and finding that they have no right, it would be (under favour) irregular as well as injurious, if the said order should be reversed before such tryall had.

7. It would occasion a great reproach, as well as discontent to the Seamen after their long oppression and disincorporation of their Trustees in *Trinity-house*, for their good affection to his late Majesty, being now by the goodness of God restored to the exercise of their Charter and priviledge; if now they should be dispossed of so antient and legall a Right before a triall at Law.

An Expedient Humbly Offered.

THat if any person shall produce Montjoyes Patent, under Seale, with deeds sufficient in Law to convey the interest thereof before his Majesties Council learned. The Trinity-house are content to go to a Tryall at Law or equity, the first Day of the next Terme, they having already given personall security in 10000 l. to answer the profits arising out of the said Office, in case the tryall shall go against them without delay, or any manner of delatory proceeding whatsoever.

F I N I S

To the Right Honourable the LORDS Assembled in PARLIAMENT.

The humble Petition of Thomas Bushell Esq;

SH E W E T H,

THat whereas your Petitioner had an Order from the late Parliament to the Gaoler of Newgate, to attend them *de die in diem*, upon Complaint of the great sufferings of your Petitioner, by wrongful Imprisonment, and contrary to the honour of Parliament Articles, made by consent of His late Majesty for debts contracted in his service.

But now so it is, may it please your Lordships, that by the malicious practice of one Crofts, Edney, and Ogden an Attorney of the Court of Exchequer, suing the Sheriff for an Escape, your Petitioner was brought into prison when he was upon his bed of sickness during the sitting of the said Parliament, contrary to all prescient and fundamental principles of Parliament. Now in regard common sense would never have made your Petitioner (then so sensible of his sad condition) to come within the verge of a Bayliffs or Serjeants Arrest, had he not been assured of those Articles of honour granted by the House of Peers to be punctually made good, in protecting your Petitioners person, until his Estate were restored him to give satisfaction.

It is therefore humbly prayed that your Petitioners Articles may be ratified by your Lordships clemency after so long and great a suffering, and that the Order for the Commitment of the aforesaid Crofts, Edney and Ogden may be renewed, whereby they may be made Examples for their contempt and opprobrious language against your Honours, and that the same measure of justice may be shewed to those who had a hand in conspiring such an affront against the Authority of your supreme power, as your Predecessors did when your Petitioner was first arrested upon the same score, as by the said Order appears, since your Petitioners losses thereby are irreparable in his Mineral Discoveries for the general good, and all those his conscientious creditors dissatisfied, by the cruelty and inhumanity of these proceedings.

And your Petitioner shall ever pray, &c.

Mr. Bushells Articles upon his surrender of the Isle of Lundy.

THE Propositions, Articles, Conditions, Engagements and Agreements made, concluded and assented unto, the Tenth day of September in the year 1647. between his Excellency Sir Thomas Fairfax Knight, Lord General; and the Lord Vicount Say and Seal, of the one part: and Thomas Bushell Esquire, Governor of the Island of Lundy for the Kings Majesty, of the other part; in pursuance of several Orders of the Committee of both Kingdoms, and an Order or Ordinance of the Lords and Commons in Parliament, as followeth:

First, It is agreed that the said Mr. Bushell shall surrender and deliver up the said Island unto the Lord Say, or unto such person as he shall appoint, and all Ammunition and Magazine there.

And that in consideration thereof the Delinquency of the said Mr. Bushell shall be taken off, and all Sequestration in respect thereof discharged; and let the said Mr. Bushell shall be restored unto his Estate, and such rights as he or his Assigns had in the Mines of Devon, Cornwall and Wales, before these troubles; and all the persons with him in the Island, and not being persons of Quality, shall be pardoned of their Delinquency, and suffered to live quietly at home, not asking any thing contrary to the Authority of Parliament.

Secondly, That Mr. Bushell shall be protected from Arrests, until he obtain the possession of his said Estate.

THOMAS FAIRFAX.

The Lord Fairfax Letter to the Speaker of the Parliament.

Master Speaker,

ICANNOT but be sensible of every thing that reflects on the Honour of the Parliament as on my self, who for their service have granted Articles to several persons as importance of affairs required particularly to your Petitioner Mr. Bushell; but of late there hath been some obstruction in due execution of them, to the prejudice of such as cast themselves on your protection, which Mr. Bushell more readily did in hope of performance of those Articles made upon his surrender of the Isle of Lundy; which the Lord Say and myself on the behalf of the Parliament then conceived most reasonable, and his papers herewith do express; therefore I intrust at your first opportunity, you would acquaint the Honourable House with the contents of my humble desires; which are, that they would make good Mr. Bushells Articles, and be pleased to recompence his great sufferings with their timely assistance, that he may be better enabled to satisfy his Creditors, which he cannot do but by pursuit of such Mineral Discoveries as Art and Experience hath taught him, which will not only be their advantage in securing those debts, but render him more capable of doing considerable service to the Common-wealth. And in so just an Act you will preserve the Justice and Honour of the Parliament, and his, who hath ever been

Bath. 29 July 1659.

Your most humble Servant,

T. Fairfax.

These,

to the Right Honourable William Lenthall Speaker of the Parliament of England.

His Majesties Answer to Mr. Bushell, concerning the surrender of Lundy.

BUSHELL

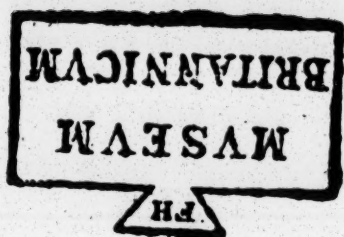
WEHAVE used thy Letter, in which we find thy care to answer the trust We reposed in thee; now since the place is inconsiderable in itself, and yet may be of great advantage unto you in respect of your Mines; We do hereby give you leave to use your discretion in it, with this caution, that you take example by our Selves, and be not over credulous of vain promises, which hath made Us great only in Our sufferings, and will not discharge your debts.

From New-Castle. 14 July 1646.

CHARLE R.

THE RUSSEY and the beloved, we greet you well: Calling to mind your vigilant Eye and care upon all occasions, and the many true services you have actually done Us in the times of trying a Subjects Loyalty; as in raising Us the Derbyshire-Miners for Our Life-guard, and Our first entrance to this war, for Our own defence, when the Lord-Lieutenants of that County refused to appear in the service; supplying Us at Shrewsbury, and Oxford with your Mint, for the payment of Our Army, when the Mint of Our Tower of London was prohibited from Our service: Your changing the Dollars with which we paid our Soldiers at six shillings a piece, when the malignant-party cryed them down at five: Your stopping the Mining in Shropshire, when the Soldiers had left their Arrears upon the Countrey, and brought the Countrey to perfection: Your providing Us one hundred Tuns of Lead-foot for Our Army without money, when we paid before twenty pounds per Tun: And your helping Us to twenty six pieces of Ordnance, when we were at a strait for supplying Chester, Shrewsbury and other places: Your cloathing Our Lifeguard and Eighteen Thousand and more with suits, stockings, shoes and Mounters, when we were ready to march in the Field: Your invention for Our better knowledg, and rewarding the Forlorn-hope with Badges of silver at your own charge, when the Soldiers were ready to run away through the infliction of some disaffected persons: Your contracting with merchants beyond the seas, for providing good quantities of Powder, Rifled ordnance, Muskets and Bullets, in exchange for your commodities, when we were wanting of such Ammunition, with divers other several services, which we hope Our Royal Successors will never forget. And that we shall bear them in Our Princely remembrance, we hereby promise you in the word of a Prince, to make those Traitorous Subjects Smith, Wilde and Stee, as well as Mordant and the Lady Anne Wade, of the Debts you owe to such Rebellious persons, as shall be proved they have assisted the Parliament (either by force or power) against Us; to the end that you may enjoy your desires at Enston Rock and the Rocks in Wales, which your own Industry and Gods providence have brought you unto. Given under Our Sign Manual at Our Court at Oxford, the Twelfth day of June, 1643.

To Our Trusty and Welbeloved Thomas Bushell Esq; Warden of Our Mint, and Master-worker of Our Mines Royal.



THE Lord Craven's CASE.



Considerations humbly offered for the reading the Lord *Cravens* Petition, in order to his Relief, against the sudden Confiscation of his Estate, and the Sale, which thereupon ensued.

I. For that, towards the latter end of the long Parliament (*March 6. 1650*) he was declared an Offender within an (*Irish*) Resolve of Parliament, of the *24 August, 1649*. Grounded upon Letters from Sir *Charles Coot*, then in *Ireland*, relating to the Earl of *Ardes*, and other persons who had *deserted* the Parliaments Service *there*, and revolted to the Enemy; and ordered to be sent into *Ireland*, *there* to be put in execution; the Lord *Craven* (being then by leave of Parliament (dated *10 of May, 1641.*) residing beyond Sea, attending his Military Command there, had his *Estate confiscated upon the penalty of the said (*Irish*) Resolve, the same *moment*, the Informations were read against him.

II. Without any { Charge,
Impeachment,
Legal Summons,
or Hearing, } — — —

III. Four moneths *after* Confiscation, there was a Resolve of Parliament (in nature of a Summons) dated *3 July, 1651*. Printed, requiring the Lord *Craven* to appear the Third of *September, 1651*. which he was to take notice of at his peril.

(But) First, It was not directed to be served upon his person according to the Laws of the Land, he residing then in a State in Amity with *England*.

Secondly, And in case of Personal notice, and a failer, to appear, It was by the Law but a Seisure of his Estate *Quousque*, untill he come, admitting there had been a Charge.

Thirdly, It required him not to Answer to any Charge or Impeachment depending against him in Parliament, or elsewhere; for (indeed) there was not then, nor at any time since, any Charge or Impeachment ever drawn up against the Lord *Craven*.

Fourthly, The Summons only required him to Answer to such things *as should be objected against him*. A proceeding without President, upon future Objections never reduced into Writing in nature of a Charge, nor made a Record, for the party summoned to

A

Answer

See Mr. *Luke Robinsons* Report from the Council, and the Letters from Sir *Charles Coot*, and the many Resolves past that day; all relating to *Ireland* onely.

*For the truth of this, see the Journal of Parliament.

For the truth of this, see the Journal of Parliament.

See the Summons in Print and in the Journal.

See the Summons in Print, and in the Journals of Parliament.



For the truth of this, see the Petition read in Parliament and still remaining on Record there.

See the Petitions remaining on Record in Parliament.

See the Indictment. And Petition remaining in Parliament.

See the Conviction under Seal.

Several Members of this present Parliament can witness this, who were present at the Tryal.

See the Journal of Parliament for the Ministers Examination, and *Faulconer's* confession, and above 100 Members of this present Parliament heard the same testified at the Bar of the House the last Parliament.

Answer unto; to expose to sale by Act of Parliament an Estate of a Peer and *Free man* of *England*, as forfeited upon such a failer.

Fifthly, The time for his Appearance was but two Moneths, he being at the time of that Printed Summons then in *Upper Germany*, near Five hundred Miles distant hence; and *leave* being formerly desired by Petition, read in Parliament, to send to the Lord *Craven* to give him notice of the Proceedings against him here, it would not be granted.

IV. For that several Petitions were presented and read in the long Parliament before the Bill of Sale did pass, by, and on the behalf of the Lord *Craven*, desiring to be heard, and thereby offering to prove;

1. That *Faulconer* the single Witness (as to matter of Crime, mentioned in the Petition at *Breda*, wherein the Parliament was styled by the name of Barbarous and Inhumane Rebels; upon which the Confiscation was grounded) was a perjured person in what he swore in that particular against the Lord *Craven*, then offered to be proved by his own Hand-writing, and several Witnesses then ready to be produced.
2. That, not being granted, *Faulconer* was indicted, (fitting the Parliament) for the said Perjury, before the said Bill of Sale did pass; and the Parliament was made acquainted therewith by Petition that he was indicted; again praying, That they would hear the Lord *Craven* before his Estate should be Enacted to be sold; but it could not be obtained.

V. For that the said *Faulconer* (relief not being had in Parliament) was soon after convicted of Perjury in the *Upper Bench*, after five hour. Evidence for that *very Deposition* of his against the Lord *Craven*.

- 1 That he drunk a Health to the *Devil* on his knees.
- 2 That he usually said Christ was a *Bastard*, and the *Virgin Mary* a Whore.
- 3 That he had been in *Alisbury Goal* and *Newgate* for Robbery and Felony.
- 4 That he attempted a fact, worse then all these (if worse can be) here forbore to be mentioned.

Where also it was proved

VI. Since his Conviction before an earthly Judge, he hath been convicted by the *great Judge* of Heaven and Earth, with great *terror* and *horror* of *Conscience*, insomuch, as upon his Death-bed calling people to him to bear witness.

He confessed

- 1 That he had most *falsely* and *wickedly* swore against the Lord *Craven*.
- 2 That being reduced to a low Condition, *Lucre* and *Gain* was a great inducement to it.
- 3 That his *Soul* was afflicted and *wounded* for the thought of it.
- 4 And desiring Pen, Ink, and Paper, in the presence of the people present, writ down how he was drawn to this horrid sin of *Perjury*; And sealing the truth thereof, by receiving the *Sacrament*, soon after died.

VII. For

VII. For that the Lord *Craven* hath continued his *Appeal* ever since the Confiscation and Sale, and dissolution of the long Parliament, to be relieved.

1 To the *Little* Parliament, but they were shortly after dissolved.

2 To the Lord *Protector*, who in the Instrument of Government, inserted a Proviso, for hearing *Appeals* depending against Bills of Sale.

3 The Lord Protector and the Council (in the Interval of Parliament) ordered a stop of Sale of the small remainder of that Estate unsold.

4 To the Parliament (1654.) who read and committed his *Petition*, and the Case was fully heard, but were dissolved that day they were ripe for a Resolution.

5 That Parliament voted also a confirmation of that Clause, That all *Appeals* depending against Sales should be heard.

This appears by the several Addresses to the several Parliaments, and Governments.

VIII. For that most of the *Members* and others who have purchased that Estate, have by beneficial Bargains made thereof, and by the vast destruction and profitable sale of Woods, and pulling down of stately houses, and selling the Materials thereof to great advantage; *Reimbursed* themselves what they have been out of purse, in the purchase of any part of that Estate.

IX. For that the last Parliament, *Ann.* 1656. were pleased to hear the Lord *Cravens* Case at the Bar of the House, which did not take up above an hour and halfs time, and nothing was produced in evidence against the proceedings of that Parliament which confiscated his Estate, but the Journals of Parliament, and the conviction of Perjury, exemplified under Seal, and the Examination of the Minister, who was present at *Faulconers* Confession on his Death bed.

This appears by the Journal, & known to the present Members.

For all which Reasons it is humbly prayed on behalf of the Lord *Craven*, that his *Petition* of Appeal may be speedily read, and a time appointed to be heard at the Bar of the House, and that he may have the *Leave* of Parliament to come over in person to attend the hearing of his Case upon the said *Petition*.

F I N I S.



The Lord Crauens
CASE.



(1)

An Answer to a Printed Paper called *The Lord Craven's Case.*

THe many Reasons offered for Reading the Lord *Craven's* Petition in order to his relief, whereby the Honour and Justice of the Parliament is endeavoured to be aspersed, and the security of the Purchaser, endeavoured to be weakned, in short are these:

That the Resolve of Parliament (*March 1650*) declared that he was an Offender, within an Irish Resolve grounded upon Letters from Sir *Charles Coote*, and that his Estate was confiscate, the same moment the Information was read against him.

Without { Charge.
Impeachment.
Legall Summons.
Or, Hearing.

Four moneths after Confiscation there was a Resolve in the nature of a Summons dated in *July 1651*. requiring an appearance *September* following.

Several Petitions in his behalf read in Parliament before passing the Bill of Sale, offering to prove one *Fawkner* the single witnesse upon which the Confiscation was grounded.

That *Fawkner* was afterwards convicted of Perjury in the Upper-Bench upon that deposition, and that *Fawkner* was a debauched Person.

That *Fawkner* since the Conviction, upon his death he confessed himself perjured in that particular, and some Paper to that purpose.

That the Lord *Craven* hath made several Addressies for relief ever since the long Parliament.

That most of the Purchasers have had such beneficiall Bargains, as that they have already re-imburfed themselves the purchase money.

That the last Parliament were pleased to hear the Case at their House, and that it did not take up above an hour and halfes time, and nothing then offered against the Proceeding of the Parliament, but the Journals of Parliament, *Fawkner's* Conviction and his death-bed Confession.

The State of the Lord *Craven's* Case, of which there hath been so much talk and clamour, fomented by all manner of Persons disaffected to the Government, to the great scandal of the Publique Justice of this Nation, is in short but this: (*viz.*)

By an Act of Parliament, the Lord *Craven's* Estate, amongst several other Delinquents was exposed to Sale, to satisfie the Publique engagements of this Nation; in pursuance whereof, there was sold as much of his Estate, as the purchase money amounts to almost Two Hundred and Fifty Thousand Pounds, and was conveyed to above Five Hundred Original Purchasers, dispersed in several parts of the Nation, and since conveyed to divers other Persons: all which have been in possession ever since. All which Sales are endeavoured to be avoided, upon the Reasons aforementioned of which every one will receive a full and satisfactory Answer,

*August. 4.
1652.*



To

To say that a Resolve of Parliament there was called an Irish Resolve, is grounded upon Letters from Sir *Charles Coote*, the Particulars of these also not appearing, is a bold and confident Assertion, and certainly not true; because it is likewise mentioned, that other Informations were read in against him: it seems so clear an evidence of his delinquency, that it produced that immediate Resolve of the House, so much complained of.

As to the second, What Delinquent was there in any of the three Acts that had any Formal Charge, Impeachment, Legall Summons, or Hearing, that appears upon the File in Parliament, against any of them; And yet here it appears by their own shewing, there was both Charge and Informations; and more appears against the Lord *Craven* then against all the Delinquents in the three Acts.

It appears by their own third and fourth Reasons, that before the Bill of Sale passed in 1652. there was Summons sent out; which undeniably appears, (by his correspondency with Agents here, and his taking notice of every passage) did come to his knowledge, and several Petitions preferred in his behalf; several long debates in Parliament, betwixt the first Resolve and the Bill, being near two years time, and the most part of that offered before the Bill of Sale, that have or can be offered since.

As to the fifth and sixth Reasons, all grounded upon false Supposals, that the Confiscation and Bill of Sale, was only grounded upon the depositions of *Fawkner*: It is most clearly otherwise, there being no lesse then the Informations of seaven other Persons, (*viz.*) *Kitchinam*, *Roley*, *Benson*, *Mawbray*, *Drury*, *Briscoe* and *Bradsey*, all produced in Parliament against him, besides what might be offered by every individuall Member, impossible now TO BE KNOWN. And besides all this, in May 1651. there is an Appeal from the Justice of the Parliament made on his behalf, to the States of *Holland*, and sent over hither by our Embassadors then there, and read in Parliament the sixth of June 1651. which adds a further Charge: So as to lay all the ground and stresse of the Bill of Sale upon the single Evidence of *Fawkner* only, must needs be a wilfull mistake, in the Publisher of the Printed Paper.

As to the Conviction of *Fawkners* perjury, which was only in the words barbarous and inhumane Rebels, and his Confession since, although admitting it should be true, it hath not such weight in the case, yet how easie it is to convict the truth of perjury by such Witnesses as were then produced against *Fawkner*.

By a Jury who seldom had any affectation to such as had purchased Delinquents Lands, where they had the least latitude of Evidence to find against them, cannot be unknown to any person that hath been much acquainted with businesse this seaven years last past.

As to his Confession since his Conviction, if he were such a person as they would render him upon his tryal; It's a wonder they should lay so much weight upon his Confession, since, so as he that was a Devil before to do them mischief, must now be made a Saint to serve their turns; and whither a long Imprisonment at their mercy, and such continual solicitations as he must needs have, when so great an Estate lay at stake, as they thought upon his Testimony only; whether these might not work as much with a necessitous person, as his pretended terror of conscience:

it certainly may without the least breach of Charity, be fit to be considered.

The seventh makes strongly against the receiving any Petition in the Lord *Craven's* Case; for if there have been so many Addressees to all those several Powers and Parliaments ever since the Bill of Sale, to the great charge and trouble of the Purchasers, and the great disparagement of their Title: And all their Petitions and Addressees have from time to time proved altogether ineffectual. It is certainly a plain Evidence of the unjustness and unreasonableness of their desires, so that there is no Justice to relieve them.

The Eighth is utterly denied, the Purchasers generally professing, and many of them ready to make it appear, they have not as yet received their very Interest money; and that by reason of the continual claim and pretences that are made by the Lord *Craven* and his Friends, they are altogether disabled, either to sell, Mortgage, settle or dispose of their Estates, upon such Advantages, and terms as other men may; so as in truth, they are no such beneficial Purchases as is pretended: However, they having already born the greatest hazards, and furnished the Commonwealth with Money, at their greatest Extremities, do humbly conceive, that it will be thought very reasonable, they should enjoy their Bargains, no defects either natural or accidental, being certainly any way to be alledged to be in the supreme Council of the Nation.

As to the last, the hearing in the last Parliament, what was done the Purchasers knew not, few of them having notice, and no defence made; but certainly the Lord *Craven* nor his Friends can reasonably expect or imagine, that this present Honourable House of Parliament should so little Esteem the Acts of their Predecessors, or the Purchasers so slightly neglect their Interests, many of their whole Estates and Fortunes depending upon that Title, as to have an Act of Parliament declared to be unjust; and the Purchasers ruined in so short a time, or upon so slender an Evidence, as is intimated by the Printed Paper.

Summary Reasons, humbly tendered to the most Honourable House of Peers by some Citizens and Members of London, and other Cities, Boroughs, Corporations, and Ports, against the new intended Bill for Governing and Reforming CORPORATIONS.

First, this Bill deprives all Cities, Boroughs, Corporations, Ports of England and Wales (8. times particularly named and comprised in the *Act of Oblivion and Indemnity*) with all their Magistrates, Officers and Members, of the common benefit, pardon, grace therein intended, and equally granted to them, as well as to other Subjects, without discrimination, by the Kings Most Gracious Majesty, who in his successive printed Messages, Declarations, Speeches to the last and present Parliament, hath solemnly promised in his own Royal Person and Ministers, and conjured all his Subjects, and this present Parliament in their proceedings, most religiously and inviolably to observe the same, and every part and branch thereof, without the least infringement: By reviving not only the former marks and names of distinction between his Subjects, but also the memory, infamy, reproach and punishment of all their formerly remitted and forgotten Crimes, even unto the un-magistrating, dis-officing, dis-franchising and dis-membring of them in the respective Cities, Boroughs, Ports, and Corporations where they live, to their own and their Posterities obloquy and disgrace, even since his Majesties and this Parliaments fresh confirmation of that Act, and his Royal advice and command to Both Houses of Parliament on Monday last, only to look forwards, but not back to any thing that was past.

2ly. It is directly contrary to the Great Charter of the Liberties of England, made in the 9th year of King Henry the third, c. 9 (since ratified by near forty other Parliaments and special Acts) (b) That the City of London, and all other Cities, Boroughs, Townes, the Barons of the Cinque-ports, and all other Ports, shall have all their old Liberties and free Customs, whereof this is one principal branch, freely to elect, place and displace their own Magistrates, Officers, Members, and not to be visited, placed or displaced by any Foreiners, Visitors, Commissioners, as is evident by their respective Charters, the Statute of 3 Ed. 1. cap. 5 the Customs of London, and Asheles Repertory, Tit. London, Sect. 6. 38, 39, 40, &c.

3ly. It invalidates, rescinds, annuls all the particular Charters of former Kings, and all private Acts of Parliament confirming them, formerly granted to London and other Cities, Boroughs, Corporations, Ports; which all our Kings by their (c) Coronation Oaths, (and his Majesty at his late Coronation) have sworn to grant, ratifie, and maintain to their Power.

4ly. It gives the numerous Commissioners named in the Bill, or any five of them (who are all Commoners) an absolute arbitrary power over the greatest Peers of the Realm (as the Dukes of York and Ormond, the Lord Chancellor, Lord Treasurer, Earles of Pembroke, Salisbury, and other Lords who are Officers, Stewards, Wardens of several Cities, Boroughs, Ports, Corporations of this Realm) to remove and displace them at their pleasure and discretion, without any legal tryal, contrary to Magna Charta, their Peerage and privilege of Parliament; And it likewise impowers them, or any five of them, though no Members, to remove and displace all the Members of the Commons House, who are Magistrates, Officers or Members of any City, Borough, or Port, (as divers of them are) notwithstanding their Privilege of Parliament, and so by consequence to make them no Members of this Parliament, there being no exception nor provision for the Peers or Members in this Act, to exempt them from this new Visitation.

5ly. It enables these Commissioners, or any five of them, jointly and severally by their Warrants, to summon all Magistrates, Officers and Members of every City, Corporation, Borough and Port of England and Wales, from out of their respective Precincts, to what place soever they shall fit, within the County where they are situated, though 20, 30, 40, or 50. miles distant, if they please to call them thither, the Act confining them to no certain place or distance: which how vexatious, chargeable, injurious it may prove to the Persons summoned, and how destructive to many Cities, Boroughs, Ports and Corporations Charters, prohibiting any to draw them out of their own Cities and Corporations for any matter or offence relating thereunto, We humbly refer to your Lordships serious consideration.

6ly. It authorizeth the Commissioners appointed for the Cities and Corporations of York, Gloucester, Exeter, Bristol, Newcastle, Canterbury, Lincoln, Pool, &c. (which are Counties within themselves) to summon all their Magistrates, Officers and Members to appear before them out of the limits of their particular Counties, at any place of the Shire wherein they are situated, contrary to their ancient Charters and privileges, the Law of the Land, and Reason of the Statutes enacting, (e) That no man shall be compelled to go out of his own County, for the publique defence and safety of the Realm, unlesse in case of Necessity, by reason of forein Enemies coming into the Realm, (f) nor cited out of his own Diocese, to answer any particular offence, much lesse then to go out of his own County and Precincts thereof, upon such a strange, unnecessarie Visitation and Occasion as this, which hath neither precedent nor parallel in any Record or Historie that can be produced.

7ly. It utterly subverts, annuls and extirpates the grand fundamental Law of England, the Great Charter, and all Acts of Parliaments, antiently & lately made for the securitie of the Subjects Freeholds, Liberties, Franchises, and free Customs against Arbitrarie and Tyrannical invasions; particularly the Statutes of Magna Charta, cap. 29. 25 Edw. 1. cap. 1, 2. 28 Edw. 1. cap. 1. and near 40. other Acts of Parliament for confirmation of the Great Charter in general, 5 Ed. 3. c. 9. 15 Ed. 3. c. 5. 23 Ed. 3. c. 4. 28 Ed. 3. c. 3. 38 Ed. 3. c. 9. 42 Ed. 3. c. 2. 3. 2 H. 4. Rot. Parl. n. 60. 20 H. 6. c. 6. the Petition of Right, 3 Car. And the Act for regulating the Privy Counsel, &c. 17 Car. c. 10. All which declare and enact, (g) That no Freeman shall be disseised or put out of his Freehold, Franchises, Liberties, free Customs, Lands or Tenements, nor put to answer for the same, unlesse he be brought in to answer by due processe of Law, according to the old Law of the Land, or fore-judged of the same by matter of Record in due Course of Law, by the lawfull Tryal and Judgement of his Peers, and Law of the Land; and if any thing be done to the contrary it shall be void and nought in Law, and holden for error. Now this Act authorizeth the Commissioners, or any five of them, to displace, disseise, out all and every Magistrate, to the contrary it shall be void and nought in Law, and holden for error. Now this Act authorizeth the Commissioners, or any five of them, to displace, disseise, out all and every Magistrate, good a Freehold in Law at any Lord, Knight, Member of Parliament, or other Freeman of England hath in his Lands, Tenements, Offices or Honours) without any legal Processe, original Writ, Enditement, Declaration, Tryal, Jurie, Oath of Witnesses, Legal Processe or Judgement, at their mere Arbitrary discretion; An Injustice, Arbitrary proceeding and tyranny, oft provided against and condemned by all former English Parliaments; therefore not to be approved or countenanced in the least degree by this Parliament and your Lordships, who so much condemne the late arbitrary powers, proceedings of Sequestrators, Decimators, and Committee-men during our Wars, and sad confusions; which these Proceedings not onely imitate but exceed in some degree, being without oath, or legal accusation.

8ly. The Commissioners appointed by this Act, as they have a more absolute, arbitrary, boundlesse power, to displace all Magistrates, Officers, Members of Cities, Boroughs, Ports and Corporations, without any distinction of persons, or rules of Law, then was ever granted to any sort of Judges, Justices or Commissioners in former ages; so they have no Oath at all prescribed to them before they Act, to prevent the Abuses and Extravagancies which may happen in the Execution thereof, as all other (h) Judges, Justices, Sheriffs, Ministers, and Officers of Justice, Commissioners of the Peace, of (b) Sewers, Forts, Castles, Pollicies of Assurance, &c. have alwayes had by Acts of Parliament erecting them, to this effect; That to your Cunning, Wit and Power, you shall truly and indifferently execute the Authority to you given by this Commission, without any Favour, Corruption, Dread or Malice to be borne to any manner of Person or Persons, and as Occasion shall require for your part you shall endeavour to make such wholesome, just, equal, and indifferent Judgements and Decrees, as shall be devised by the most discreet and indifferent number of your Fellows, being in Commission with you, for the due Redresse, Reformation and Amendment of all and every such things as are contained in the said Commission, and the same to your Cunning, Wit and Power, cause to be put in due Execution without favour, meed, dread, malice or affections, as God you help; which Oath will be far more requisite in this Case then any other, to prevent all Corruption, Malice, Rancor and Revenge in Commissioners and Informers, after our many years Wars, Discords and Resentments of former injuries, not yet buried in Oblivion, over-apt to be remembered upon all occasions.

9ly. There is no appeal provided in this Act from any five of the Commissioners sentence, and removal of any Magistrate, Officer, or Member aforesaid, (though never so injurious) either to the Major part of the Commissioners of each County, or to the Justices of the peace in their Quarter-Sessions, Judges of Assize, Kings Bench, or other his Majesties Courts at Westminster, or to the Lord Chancellor of England, or Lords in Parliament, as is (i) usual in all Cases of Dis-franchisement, other Judgements and Decrees made by Commissioners, and all inferior Courts of Justice; If any erroneous Judgement or Dis-franchisement be given in any Corporation or inferior Court, the party grieved is relievable by a Writ of Error in the Kings Courts at Westminster, and erroneous Judgements in the Kings own Courts there, are remediable in the Exchequer Chamber, and Lords House, by Writ of Error or Appeal; All erroneous Acts, and unjust Judgements in one Parliament, are reverfable in another, because all Commissioners, Justices, Judges, & Parliaments too may erre, and it is most just and reasonable that parties injured by one Judicature, should be righted and relieved by another, not left remediless: Much more therefore in this Case, where the proceedings are meerly arbitrary, without any Rules of Law, to which other Judicatures are confined.

10ly. It gives the Commissioners power to destroy all the Cities, Burroughs, Corporations, Ports of England and Wales, and their respective Charters, under pretext of confirming them, For the Commissioners or any five of them may put out and displace all, or so many of their Magistrates, Aldermen, Common-counsell men, and Members at their discretion, if they please, as there will not be left a Competent number to elect others in their places, according to their Charters, whereby the Corporations and their Charters will be destroyed, and their Election of Members to serve in Parliament, together with them. A thing of dangerous consequence, extremely prejudicial to his Majestie and the Kingdom, and destructive to his Majesties Customes and Excise, arising principally out of Corporations and their Members.

11ly. It puts all Corporations, and their Magistrates, Officers, Ministers, Members into a far worse Condition, in some respects, then if no Act of Oblivion and Indemnity had been passed by his Majestie and the Parliament; For if they had been questioned for any offence for which they shall now be Displaced & Dis-franchised, either by a Quo Warranto, Indictment or Proceedings in any Court of Justice, they should have had a Legal Tryal by their Peers, a Liberty to Challenge their Juries, (who are Judges of the matter of Fact charged against them,) the benefit and advice of Counsell, all just and legal Exceptions to their Indictments, Presentments, Declarations, and Witnesses produced against them upon Oath face to face, with the benefit of their own Witnesses upon Oath, for their Vindication and Acquittal: of all which they are totally deprived by this Act, and left only to the Commissioners arbitrary discretion and mercy, without any legal defence of their Innocence and Loyalty too.

12ly. The passing of this Act, as it is altogether needlesse in respect of its restoring part, since all Magistrates, Officers and Members of Corporations, formerly ejected for their Loyalty, are already restored, or may be restored upon request, or by a (l) Writ of Restitution in the Kings Bench, without the help of this Act; so the removing part, must needs revive the memory and Examination of former injuries, and stir up new Divisions, Contentions, Factions and Parties, both between the Commissioners themselves, and the Magistrates, Officers and Members of every City, Burrough, Corporation and Port, dividing them one from and against each other, to the great disturbance of the Publique Peace, (m) their own ruine, the diminution of his Majesties Revenew, decay of Trade, obstruction of the Free & voluntary Supply now granted to his Majesty, and frustration of those pious, gracious, healing, uniting ends expressed in the Act of Indemnity and Oblivion: At the best it will prove a remedy far worse than a disease it pretends to cure; and this one President of meer Arbitrary power and proceedings, made by a Parliament of England, against the Franchises, Liberties, Freeholds Privileges, of all Cities, Burroughs, Ports and Corporations in England and Wales, and their Magistrates, Officers, Members, may in after ages prove fatal and destructive to the Inheritances, Franchises and Freeholds of all the Nobility, Gentry, and other Freeman of England, who may be deprived of them by like Arbitrary Commissioners and Proceedings, without any legal Tryal or Conviction, if they consent to this new Bill, and to the Promoters of it, against their Oathes and Trusts to the Cities, Burroughs, Corporations, Ports, who made them Freeman, and entrusted them to maintain their Liberties and Common Utility by their best Counsell and Advice, especially in Parliament.

All which we humbly submit to your Lordships grave and prudent Consideration, doubting of your Justice, nor of his Majesties grace and goodnesse for your Charters, Liberties, Tranquillity, Unity, and Prosperity.



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TO THE
RIGHT HONOURABLE
THE
PARLIAMENT
Of the Commonwealth of ENGLAND,
now Assembled at WESTMINSTER.

*The Humble Petition of divers Persons that Sell Beer in
the County of Sommerfet, on the Behalf of themselves
and others.*

Humbly Sheweth,

THat by the late Additional Act of Parliament, made in the year One Thousand Six Hundred Fifty and Seaven, relating to the Excise, effectual Waies and Meanes are Ordained by appeal unto the Justices of the Peace in the respective Counties, for prevention of Abuses in the Collection of the Duty: But so it is, may it please your Honours, That the Farmers of the Excise, in the said County, do altogether decline that way and course, wherein they are to be regulated in the Collecting of the Excise payable by your Petitioners for Beer, and do chiefly pitch upon and make use of the unlimited power contained in the Two and Thirtieth Article of the Act of Parliament, of the Fourteenth of *August*, One Thousand Six Hundred Forty and Nine; And under pretence thereof, do by themselves and their Servants, (amongst other things) requite and exact greater Bonds and Security then the Parties can procure, thereby causing many of them (through fear) to submit and consent to the payment of whatsoever they, or any of them impose, and demand to be paid Monethly, in the name of Composition for and in lieu of the Excise for their Beer, amounting to a great value over and above what of right ought to be paid, according to the Book of Rates; and if they consent not to their said demands, they procure Warrants of Distress from some Justice, or Justices of the Peace, for the Levying of Fourty Shillings upon the Goods of severall of your Petitioners: All which said Practises, tends to the utter undoing of your Petitioners, their Wives and Children, if not relieved by your Honours.

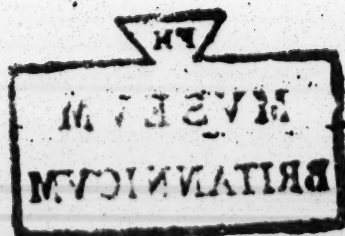
May it therefore please Your Honours, to take some speedy course, as to Your Honours shall seem meet, whereby Your Petitioners and others aforesaid, may have the Benefit of the said Additional Act, for the Tryal of the truth of their Conformities to the payment of the Duty, as they humbly conceive was thereby intended, without being deprived thereof, by the Farmers taking occasion from the said Two and Thirtieth Article to hinder the same, and to bring Your Petitioners and others, under intollerable bondage to them and their very Servants, as aforesaid; And that Your Petitioners may not be compellable to travell out of the Market-Towns wherein they reside and dwell, for making their weekly Entries and Payments, unto their great charge, trouble and hinderance, in their Occasions and Meanes of Livelyhood.

And Your Petitioners shall pray, &c.



1639

William Goodhue



To the Right Honourable the Knights, Citizens, and Burgeses in PARLIAMENT assembled.

The Humble Petition of Richard Williams and Margaret his Wife, the Relict of Walter Lloyd deceased; on behalf of themselves, and Mary Lloyd and Katharine Lloyd, the Daughters and Coheirs of the said Walter Lloyd; being Infants, under the Age of Ten years.

SHEVVETH,



That *Rees Lloyd* Father of the said *Walter*, being seised in Fee of certain Lands and Tenements in *Llandiloe Tallibont*, in the County of *Glamorgan*, worth 80 *l. per annum*, did mortgage the same to *David Jenkins Esq;* before his Delinquency for 100 *l.* redeemable on payment thereof at a day agreed upon long since past.

That *Philip Jones* now styled *Philip Lord Jones*, *John Price*, and *Henry Bowen* Esquires, three of the then Committee for the said County; *Rowland Dawkins* then Sequestrator, did in forceable manner with armed Souldiers, and by way of Sequestration take away the possession thereof from the said *Rees Lloyd* (as the estate of the said *David Jenkins* forfeited to him for nonpayment of the mortgage money, and consequently belonging to the Common-wealth: And took away the Corn and Grain of the under-Tennants of the said Lands.

That about *December, 1646*. the said Committee did grant the Premises, and delivered the possession thereof to *Elizabeth Price* Widow, Mother to the said *John Price*, and Mother in Law to the said *Philip Lord Jones*, and *Henry Bowen*, and near Kinswoman to the said *Rowland Dawkins*, and Let the same at an undervalued Rent to her as Tennant to the State.

That the said 100 *l.* Debt and Interest being out of the profits thereof satisfied, with a great overplus, and no accompt thereof given the Common-wealth for the same, the said *Rees Lloyd* (on Petition to the late Committee of Lords and Commons for Sequestration, and a Report made by Serjeant *Bradshaw* of the State of the Case) obtained an Order for the Committee in the County of *Glamorgan* to accompt for the mean profits, and restore unto him the possession of the Premises; but the said *Rees Lloyd* having spent much time, and wasted himself in the prosecution thereof, out of meer grief, by reason of the said oppression, died before any fruit received of the said Order.

That the said *Walter Lloyd* his Son and Heir, after his Fathers decease on Petition to the Barons of the Exchequer (to whom the power of the said Committee was devolved) got the same Order revived, whose power was determined before the same was put in execution.

That the said *Walter Lloyd* on Petition to the Commissioners for Compounding (then impowered with the Cognizance of that Case) obtained an Order to the Sub-Commissioners, in the Country, to examine whether the said Debt and Interest was satisfied out of the profits of the Lands, and whether the Inheritance thereof was not conveyed to the said *Jenkins*; upon proof whereof, the said Sequestration was to be discharged, and the said *Walter Lloyd* to be restored to the Possession of the estate.

That the Sub-Commissioners, *Jenkin*, *Franklin*, and *William Morgan*, although often Solicited by *Walter Lloyd* on that behalf, wholly neglected and refused either to Examine or Certifie the same, the one being a Kinsman to the Widow *Price*, and both supposed to be Commissioned by the Recommendation of the said *Philip Lord Jones*.

That the better to Justifie the former unjust and arbitrary proceedings, the said *Philip Lord Jones* did by several indirect means after the death of the said *Rees Lloyd*, get into his hands the Evidences and Writings belonging to the said estate.

That the said Deeds were left in the Custody of one *William Lloyd* in Trust.

That the said *Philip Lord Jones* did pay or cause to be paid unto the said *William Lloyd* (being a young man, and necessitated) a certain Sum of money, as a Reward for the breach of the said Trust, and delivery up of the said Writings unto him, or by his order, which the said *William Lloyd* did accordingly.

That being thus strengthened, the said *Elizabeth Price* and *Philip Lord Jones* denied the said Lands were Sequestred for the Delinquency of the said *David Jenkins*, and averred that the said *Elizabeth Price* was in her own right put in possession thereof, and did thereupon set on foot a pretended Title to the Inheritance of the said Lands and Premises.

That it being upon reference to be examined whether Sequestred or not, the said *Philip Lord Jones* being then one of his Highness Council, *John Price*, and *Rowland Dawkins*, Members of the then Parliament, and *Henry Bowen*, together with their Agents and Servants in the Sequestring thereof, utterly refused to be Examined or to Certifie the Truth thereof.

That the Petitioner *Margaret*, after the decease of the said *Walter* her late Husband, by order of the Commissioners for Compounding, obtained the possession of the premises, and did peaceably possess the same.

That the said *John Price*, *John Gibbs*, *Rowland Dawkins*, or some two or more of them, as Justices of the Peace, did turn the Petitioner *Margaret* out of her just possession, obtained as aforesaid; and Committed her Servants to *Cardiffe Goal*, where they remained prisoners above six weeks, to the Petitioners great charge and detriment.

Now for that the Petitioners are able and ready to make positive and sufficient proof of the forementioned particulars: As also for that by reason of the potency and confederacy of their Adversaries, who have with a high hand kept them (being poor and disabled by the said Oppression) from obtaining relief, during the Continuation of the power of the Commissioners for Compounding, and thereby rendered them altogether Remediless, unless they may obtain the favourable aide and owning of this honourable House, to whom in this Day of their Crying Calamity they most humbly and earnestly appeal.

May it therefore please your Honours to Receive this their humble Petition and Appeal, and to order Examination of the Truth thereof in such manner as to your wisdoms shall seem meet: To the end and intent, that the said *Elizabeth Price*, *Philip Lord Jones*, or one of them, may accompt for the mean profits of the said Lands, and pay to the Petitioners the Overplus (the said Debt of 100 *l.* and Interest being satisfied) together with the Damage sustained by your Petitioners therein: As also, that the said *Elizabeth Price*, and *Philip Lord Jones*, may be forced to Restore the possession of the said Lands and Premises, with the Deeds, Evidences, and Writings thereto belonging to your Petitioners, and accompt for the 100 *l.* and Interest to the Commonwealth according to justice and equity.

And in Order to the discountenancing of Oppression, by publick Ministers perverting of the Treasure and Revenue of the State to private uses, and perpetration of private Injuries; That the said *Philip Lord Jones*, *Rowland Dawkins*, and *John Price*, &c. may be proceeded against according to the Justice of Parliament.

And your Petitioners shall daily pray, &c.

RICHARD WILLIAMS.

PLANTATION
KAYE

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167.

Example the Knight
held in Parliament assembled

John Willelmus de ...
Duchess of ...
...

1699
The Baron of ...

Honourable the Knights, Citi-
zen, and Burgessees in Parliament assembled,

The humble Petition of Thomas Brewer Gent. and William Pawlin, Elizabeth Quested Widow, Ann Belwick, Daughter of Ann Belwick Widow, and other the Creditors of Vlick late Earl of St. Albans, and Clanricard, deceased,

HUMBLY SHEWETH,

That the said Earl being much indebted, and having occasion to take up more money, did earnestly importune Sir Henry Compton, (since deceased) Sir Lewis Dive, and your Petitioner Thomas Brewer, to be engaged with him, for whose indemnity, he would convey all his estate in Kent unto them.

That the 4th. of May 1637. the said Earl did by his Deed and Fine thereupon levied, convey and assure unto the said Sir Henry Compton, Sir Lewis Dive, and your Petitioner Thomas Brewer, and their heirs, all his lands (by name) in the County of Kent, to save them harmless, against all such debts as they had or should stand engaged with, and for him the said Earl, and also with power to raise monies by sale, or otherwise, for payment thereof, in case himself did not discharge them within seven years next after the said 4th. of May 1637.

Afterwards the said Trustees did become engaged with and for the said Earl, as his sureties, in several obligations, amounting unto above 20000 l. principal money.

But for that the said Earl did not satisfy the said debts within the said 7 years, nor at any time after, the said lands became absolutely vested in the said Trustees (who were accordingly seized thereof, for the purposes aforesaid) who have been ever willing to perform their trust, as well to the satisfaction of the said Creditors, as disengagement of themselves, but were interrupted by reason of the late distempers.

That about Feb. 1647. The Earl of Northumberland, then of the Lords House, and Sir Robert Pye, then of the House of Commons, (being two of the said Earls Creditors) did upon the same security, by virtue of the said Deed, obtain an Ordinance of Parliament, unknown unto your Petitioner Thomas Brewer, for payment of their respective debts, out of the profits of the premises, which debts have been since accordingly paid.

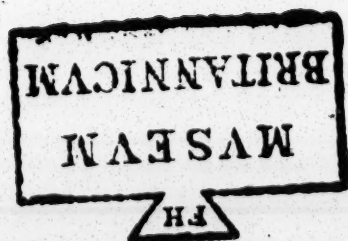
That your Petitioner Tho. Brewer being a prisoner in Maidstone Gaol (only for not taking the late Oaths of Supremacy and Allegiance) where he had been detained from Novemb. 1642. was sent for in July 1649. by Order from the Committee appointed for preparing an Act for settling 2000 l. per annum upon John Bradshaw Serjeant at law; and so soon as your said Petitioner had made answer to such questions as were then put unto him, touching the business then before them, he was forthwith returned back again to prison, where he remained until April 1652. notwithstanding the said Oaths of Supremacy and Allegiance were the 10th. of Feb. 1648. by Act of Parliament repealed, made void and null.

That in August 1649. divers Mannors and Lands of the Lord Cottingtons, together with the said Earls lands in Kent, were by Act settled upon the said Serjeant Bradshaw, and his heirs, with a Saving to such as had any right to any part of the said estates, so as they entered their claim before the Justices of the Common Pleas, before the last day of January 1649.

Now forasmuch as your Petitioner Thomas Brewer, was a prisoner as aforesaid, and had no knowledge, or could come to the knowledge of the said Act, which was never published, it was impossible for him to take any benefit of the Saving therein contain'd, or to set forth any claim or title to any part of the said estate, though never so good, perfect and absolute in law or equity whatsoever, which otherwise he would most readily have done. And for that it appears by the Saving in the said Act, it was not the intention of the Parliament to take away the just right of your Petitioners, or others, unto the said lands. And for that your Petitioner Thomas Brewer hath been sued for divers of the said debts entered into, with and for the said Earl, and for which the said estate is made over as aforesaid, and which your Petitioner Thomas Brewer is no way able to satisfy or pay, so that he must lie as a pawn or prey in perpetual prison. And for that the Lord Cottingtons lands passed by the said Act, are upon enquiry, and as your Petitioners are informed, and doubt not but they shall be able to prove, found to be of much better value than 2000 l. per annum, which was the yearly revenue only by the said Act intended to have been settled upon the said Serjeant Bradshaw; and for that your Petitioners the said Creditors, were wholly ignorant of the said Act and Settlement, neither had they any estate in law in the said lands, whereby they might put in any legal claim thereunto, according to the said Act, had they known thereof. And for that the said Earls lands were so long since settled as aforesaid, and upon so good, valuable, and equitable considerations, and concern your Petitioners the said Creditors, who are many of them poor Widows and Orphans, and who together with your Petitioner Thomas Brewer will be utterly ruin'd, unless relieved by the justice of this honourable Parliament.

May it therefore please your Honours to take the premises into your pious and gracious considerations, and to order that the said Serjeant Bradshaw, shall take the estate of the said Earl, subject to, and charged with the trusts aforesaid, and shall either pay or satisfy the foresaid debts of the said Earl, with reasonable damages, and discharge his said Trustees thereof (they releasing all their interests in the said Earls estate) or that the said late Earls estate be taken out of the power of the said Act. And that the Trustees, or the Survivor of them, may be impowered, notwithstanding the said Act, to make sale thereof, whereby your Petitioners the Creditors of the said Earl, may have their just debts satisfied, and your Petitioner Thomas Brewer be indemnified, according to the said settlement in May 1637. Or otherwise to do therein what in your grave wisdoms shall seem meet, as well to the magnifying of your Honours Justice in all, as to the glorifying of God by All.

And your Petitioners shall pray &c.



The Case of Thomas Bushell E

M After *Bushell*, according to his obligations of duty and particular ingagement, to put in practice his Master the Lord Chancellor *Bacons* conceptions, concerning Minerals and Mineral discoveries, made his first adventure in *Wales*, where his experience verified his Masters Theory, and his success answering his expectation, he (according to the advice of his Lord, from whose deep foresight in future events he had received that command, and urged by the inconveniences which attended his taking up money in *London*, and returning it thence to pay his Workmen, and the charge of returning it back to *London*) contracted with his late Majesty, that in case he should find any quantity of Silver in cutting through the five mountains nominated to Mr. *Bushell* by the Lord *Bacon*, he should have a Mint to coin it, which Mr. *Bushell* did, had his Mint established, and coined considerable summes weekly.

But the wars in *England* survening, His Majesties commands called him from those Mines (which yielded him above 4000 *l. per an.* and relieved many hundreds of poor people, that were employed in those works) to attend his Majesties more immediate service: How his Comportment therein answered the trust reposed in him by His Majesty, His Majesties attestation under his Royal hand and seal will sufficiently evidence: although there are many other services performed by him, both to the King and Queen which are not mentioned therein.

His Majesty, in consideration of his Loyalty, and the vast debts he daily contracted for his service, was pleas'd (with the advice of his Council) to grant him under the great Seal, the Customs of Lead for 21. years at the yearly rent of 6000 *l.* But the Parliaments victory over His Majesties forces soon defeated him of the possession of them; as the wars before had outed him of the Silk office, which was erected upon the complaint of the Silk-weavers, to prevent the false dying of Silk; all Silk, both before and after it was dyed, being to be brought to the said Office, and 6 *d. per Pound* by their voluntary offer to be payed for it, one two pence whereof was to be divided between Mr. *Bushell* and Mr. *Carleton*, to support the great charge of the said Office, and the remaining 4 *d.* was reserved for His Majesty, who finding of what importance the Mines would be, both to His Majesty and Kingdoms, if the rich veins in other mountains were pursued like those in *Wales*, was pleased to allow Mr. *Bushell* the disposing of the said 4 *d.* upon such mineral works, as the Lord *Bacon* had designed for tryal, he giving a just account of his Receipts and Disbursements to the Lord Warden of the Stanneries, and the Lord Mayor of *London* for the time being; but the wars intervening, deprived him of the benefit of both: Nor since His Majesties happy Restauration can he be admitted to either, although the one be assigned by him for the payment of his debts to Widows and Orphans, and contracted for His Majesties service, and the other for a general good, to take off the Taxes of the people, if Providence adde a blessing to his endeavours.

His Majesty was pleas'd to intrust him with the command of *Lundy Island*, where he received several summons from divers of the Parliament Officers, but still refused to yield it without His Majesties Royal consent by word of mouth at *Causam*, (whither Mr. *Bushell* had a safe conduct from Sir *Thomas Fairfax*) although formerly invited to it by His Majesties Letter: And then he gave it up to Sir *Thomas Fairfax*, (who was the Parliaments General) and the Lord *Say*, (who was the proprietor of the Island) upon Articles, which being formerly violated, and he contrary to the tenor of them arrested, he put in Bail, and his Bail being afterwards prosecuted by one *Snellcock*, the said *Snellcock* was committed for his contempt, the Articles confirmed by an Ordinance of the Lords and Commons in Parliament in the year 1647. although he could never be restored to his Estate, according to the intent of them.

The several revolutions these distracted Kingdoms suffered afterwards, still deprived Mr. *Bushell* of the justice he ought to expect as his due; so that he refused his mineral Profession; and coming about three years since to *London*, to settle some business in order to his proceedings in mineral discoveries, notwithstanding he was still injuriously debarred of his Estate, he was (contrary to his Articles) arrested, dangerously wounded, and committed a close Prisoner to *Newgate*, under which restraint he lay ever since, until upon his Petition to the Lords the last Parliament, he was relieved by their Order to attend their Lordships *de die in diem*. But no sooner was the Parliament adjourned, but one *Crofts*, *Edney*, and *Ogden* an Attorney, slighting and openly in disdainful language vilifying and despising the said Order, sued the Sheriffs for an Escape, whereupon he was again clapt up a close Prisoner in the same *Newgate*: But upon his Petition to the Lords at their reassembling, their Lordships were pleas'd to order the commitment of those Creditors, but the sudden dissolution of that Parliament frustrated Mr. *Bushell* of the benefit of the said Order.

The same Creditors at whose suit he is now a Prisoner, did in *Cromwells* time subscribe to take five in the hundred; nor do they aim now so much at the satisfaction of their debt, as to serve the avarice of others, (with whom they are combined) who have intruded into Mr. *Bushells* Estate, and now seek by this oppression to deprive him of all means to recover his Rights, which they have wrested out of his hands.

Nor is the debt to *Crofts* so just as is pretended, being for Commanders and Souldiers clothes, in which the said Mr. *Bushell* was cheated with Copper instead of Silver Lace.

Mr. *Bushell* humbly conceives hereupon, that the relief their Lordships shall afford him will be a high Justice to their late and present Majesties, their Lordships own Honour, and the whole Nation in general.

For if a Person that hath done their Majesties such Signal services shall have no other Monument then a loathsome Gaole, it cannot but cast an unhandsome reflection on their Majesties: What his services to his late Majesty were, and what His Majesties Resentment of them was, does appear by his Royall Attestation.

For his service to His present Majesty, he humbly refers himself to His Royal Breast; only this he must take the boldness to say, That by the intelligence which at a dear Rate he purchased, and gave His Majesty of a design laid by *Cromwell* and his cursed Fraternity, to destroy both His Majesty and the Duke of *York*, he was one of the Principall Instruments of the happiness, these Kingdoms now enjoy in their restored Prince.

What a Justice it will be to their Lordships own Honours, will be no hard matter to conjecture: For, if Articles made by their General, and Confirmed by the Parliament, and Orders in pursuance of them be so easily violable; a great diminution and contempt both of their Honour and Authority will necessarily follow, especially in such a Case as this: For Mr. *Bushell* could not be so stupidly insensible of his own engagements, as to have adventured himself among so many Creditors, but that he conceived himself secured by the Honour of a Parliament, which he had received in Hostage for the performance of his Articles.

What a Justice it will be to the Nation in general, may be concluded from his constant indeavours (which have not been without Eminent success) to promote the honour and profit of it, enriching it by discovering its Subterranean Treasure, and employing many poor people who are now ready to starve for want of him: Nor are the Mines in a better condition, those that have injuriously extorted them out of his hands, nor knowing how to work them; So that they now lie useles and unprofitable, being buried in their own Ruines; and that he is able to restore them may be easily Credited from his first reducing them from a ruder Chaos to such a perfection, as that of the Silver extracted out of Lead, he Coyned a 100 *l.* a week.

Nor have the Eclipses he has suffered in his fortunes (to a total deprivation of them) had any influence on his Industry, which has still continued indefatigable. Witness the Recovery of a Work at *Row-Pits* on *Mendippe* in the County of *Summerset*, formerly deserted (by reason of the abundance of water) by Sir *Bevis Bulmar*, which Mr. *Bushell* is so confident, that he will be content to forfeit all his Grants both of the Mines, Mint, and Customs of Lead; and to suffer death as the greatest Traytor and Imposter, if in two years time he doth not out of that drowned work and other discoveries of his own, raise 1000 *l.* a week. Provided he be secured by the Parliament in the quiet enjoyment of them, when he has been at the trouble and charge to drein the one, and discover the other.

This work had been long since perfected, had not his Arrest and Imprisonment (contrary to his Articles, destroyed that little Reputation he had left, and involved him in those misfortunes, which make him now an humble Suitor for their Lordships relief. And certainly it cannot but seem to any Rational man to be very hard measure, a Person that hath done and is still able to do such considerable services to the publick (to which he ever was, and still is only devoted) should be denied a share in that happiness of which himself was so great an Instrument, and which he dares say he is able by mineral discoveries, to advance more then any other Subject within His Majesties Kidgdoms. Mr. *Bushell* having been proved by a part of his life, led for three years in an obicure Hermitage, before he was allowed by his master the Lord *Bacon* to attempt the said mineral design. And after that, to preserve himself from utter ruine, he was forced in the late Wars to endure a three years famine in *Lundy Island*, before he had those Articles, whose Confirmation he now humbly desires. As also three years banishment from the Conversation or sight of his friends or any others at *Lamberh* for service he had done His Majesty; to which retirement he was pursued by *Cromwells* bloudhounds, and others who had intruded into his Estate. And after all this hath languished and groaned under a loathsome Sepulture for three years more in *Newgate*, contrary to the Articles he had given him by the Parliaments General, and Confirmed by an Ordinance of their own, as hath been said before.

And if any shall seek to prejudice the Reputation of the said Mr. *Bushell*, by objecting against him the multiplicity of his Debts yet unsatisfied: It cannot be supposed by any Rational man, but that a person engaged in so expenceful a design as that of the Mines must of necessity Contract some Debts, which had not his late Majesties Commands called him from those rich Works his own Industry had raised, or had he been restored to his Estate as he ought by his Articles, had been long since discharged; So that the non-payment of his Debts contracted before the Wars, those he was engaged in for His Majesties service during the Wars, and those which for his necessary support, by reason of his being divested of all his Estate he has been involved in since, must by any sober man be rather imputed to his misfortune, then any injustice in himself: Especially, since the sole aim of all his indeavours ever was the service and advantage of the Publick, according to the Commands and Directions of his Dead Master the Lord *Bacon*, without any the least reflection on his own particular Interest.



E. J. M. - Wall
 P. H. C. - Wall
 1879

[illegible]

To the Right Honourable
The Knights, Citizens, and Burgesſes aſſembled
IN
P A R L I A M E N T,

The humble Petition of Edmond Veale,

ſheweth,

THat your Petitioner being Exicutor of the laſt Will and Teſtament of *Dorcas Wollerſton* dated 17. Febr. 1652 exhibited his Bill afterwards before the Lords Commiſſioners of the Great Seal againſt one *William Lidgold*, *William Adderly*, and others; thereby claiming certain Lands and Tenements in *Eaſt Burnham*, in the County of *Bucks*, called *Whites*, wrongfully withheld from him; which *John Wollerſton* and *Anne* his Wife (Parents of the ſaid *Dorcas*) had recovered in the ſaid Court by a Decree, 7. Nov. 12. *Jacobi*, in the time of the late Lord Chancellor *Elleſmere*, and thereupon had the poſſeſſion thereof: But by fraud was outed thereof (contrary to the ſaid Decree) by the ſaid *Lidgolds* enticing one *William Barton*, then a Boy, to creep under the threſhold, and ſo to open the dore, whereby he got poſſeſſion.

That your Petitioner had an Order in purſuance of the ſaid old Decree granted him by the ſaid Lords Commiſſioners, 23. Maii 1653. to quiet him in poſſeſſion of the pre-miſſes; but ſhortly after your Petitioner was in a manner forced to conſent to a tryal at law, as by the rule for the ſame may appear; whereat the ſaid *Lidgold* was to have brought in the Deeds concerning *Thomas Wade*, which would have cleared your Petitioners title, which the ſaid *Lidgold* reſuſing, pleading a diſſeiſin at the tryall, unjuſtly obtained a verdict againſt your Petitioner; & afterwards the ſaid Cauſe was brought unto a hearing in the Court of Chancery (But the ſaid old Decree not being ſuffered to be read) your Petitioner was diſmiſſed without any hearing at all, with this Order, That in caſe he would trouble the Defendant no more, he ſhould pay no Coſts; whereupon your Petitioner repaired ſeveral times to the Lord *Liſle*, and informed him, that by their Lordſhips concluding and diſmiſſing him without a hearing they had utterly ruin'd him, and that he was forced to be relieved by one of his Lordſhips Neighbours; which his Lordſhip hearing, ordered your Petitioner a Re-hearing, if the ſaid Diſmiſſion was not ſigned and enrolled, as by the Order under his own hand ready to be produced, may appear; which was then too late, the ſaid Diſmiſſion being both ſigned and enrolled, to the utter ruine and undoing of your poor Petitioner, his Wife and Children, unleſſe relieved by your Honours, there being no other Courſe left him wherein he can expect any relief.

Your Petitioner therefore moſt humbly prays your Honours ſerious Conſideration of his long and ſad ſuffering condition, that ſo at length, after all his long, painfull, expencefull, and vexatious Suits in Law, a finall end and determination may be made; And your Petitioner by your Honours Judgment, put into the poſſeſſion of the ſaid Premiſſes, according to the ſaid Decree in 12. Jacobi, and the arrears of Rent ſo unjuſtly detained, paid him, with damages for the ſpoil of Wood, ſince his being outed of the Poſſeſſion.

And he ſhall ever Pray &c.

Edmond Veale.

T H E P E D I G R E E.

Thomas Wade had issue { *Richard Wade* his eldest sonne.
John Wade, his second sonne.
Humphrey Wade, his third sonne.
Richard Wade had issue { *John*.
John the sonne of *Richard* had issue { *Abraham*
and
Anne.
Abraham had issue { *Abraham*.
Abraham the Father dyed :
And
Abraham the sonne died without issue.
Anne survived, and had issue { *Dorcas*, under whom
the Plaintiff claims.

John, the second sonne of *Thomas*, dyed without issue.
Humphrey had issue { *John*, who sold the premises
to *John Lidgold*.
John Lidgold sold the premises to *Richard Lidgold*.
Richard Lidgold sold the premises to *William*, who now claims
and enjoys the same.

The Case of EDMUND VEALE Plaintiff, against WILLIAM LIDGOLD Defendant, stands thus.

THE Answer of *John Wade* the Son of *Humphrey*, whom the Defendant claimeth his title under, saith, That *Thomas Wade* his Grand-father was seized in Fee of the Mesuages, &c. called *Whites*: That the said *Thomas Wade* had issue, viz. *Richard Wade*, *John Wade*, and *Humphrey Wade*; which said *Richard* had issue *John*.

That *Richard Wade* died in the life time of *Thomas Wade* his Father, leaving issue *John Wade*, the eldest Son of *Richard*.

John, the Son of *Richard*, had issue *Abraham* and *Anne*, the Wife of *John Wollerson*.

That *Abraham Wade*, Son of *John*, the Son of *Richard*, had issue *Abraham*, who died an Infant.

That after the decease of *Abraham* the Son of *John*, and *Abraham* the Son of *Abraham*, the premises descended to *Anne Wollerson*, as Daughter and Heir to *John* her Father.

That *John Wade*, the Son of *Richard Wade*, after the decease of *Thomas Wade* aforesaid, agreed with *John Wade*, the Son of *Humphrey*, the Defendant in the Suit, That the said *John* the Son of *Humphrey*, should enjoy the premises during his life.

John, the Son of *Thomas Wade* aforesaid, delivered the possession of the premises and the Deeds unto *John Wade*, the Son of *Humphrey*, the youngest Son of *Thomas* aforesaid.

That shortly after the decease of *Abraham*, who was Son and Heir to *Abraham*, the Son of *John Wade*, who was Son to *Richard Wade*, the eldest Son of *Thomas*, *Anne*, the Daughter of *John Wade*, Son of *Richard*, entred and exhibited their Bill against *John Wade*, the Son of *Humphrey* aforesaid, and *Margaret Lidgold*, the Mother of *William Lidgold*.

That the said *John Wade*, the Son of *Humphrey*, in his Answer, set forth, That he thought, after the decease of *John Wade*, the Son of *Richard*, the premises did descend unto the Defendant *John*; for he did not know so much, for that the right and title of the premises descended and came to *Abraham Wade*, Son and Heir of *Abraham Wade*, Son and Heir of *John Wade*, who was Son and Heir of *Richard Wade*, the Son and Heir of *Thomas Wade*.

That *John Wade*, the Son of *Humphrey Wade*, about the 34. *Elizabeth*, having married the Sister of *John Lidgold*, did lease the premises to *Tho. Pond* and *Eliz.* his Wife for forty years, if the said *John* the Defendant so long lived.

That fifteen years after, *Pond* and his Wife conveyed their estate to *Lidgold*, Father of the Defendant *William*: And the said *Margaret* after the decease of *John* the Son of *Humphrey*, by virtue of the said Lease, as Executrix to *John Lidgold*, entered and possessed her self of the premises.

That *Margaret Lidgold* the Defendant, against whom the Decree was made, confesseth in her Answer, That *Tho. Wade* had three Sons, (viz.) *Richard Wade*, *John Wade*, and *Humphrey Wade*; And that *Richard Wade* died without issue, and *John* died without issue, and *Humphrey* entred and had issue: The other Defendant in the Suit, *John Wade*, the Son of *Humphrey*, who entred.

That *John Wade*, Son of *Humphrey*, by Deed dated 28. *March* 35. *Eliz.* conveyed the premises unto *John Lidgold* & his Heirs.

That *John Lidgold* by his Deed of Feoffment, dated 29. *Martii* 35. *Eliz.* conveyed the premises to *John Wade*, the Son of *Humphrey*, and *Alice* his Wife for term of their lives.

That *John Lidgold*, being seized of the Reversion of the said Tenement, conveyed the same to *Ellin Wade*, Daughter of *John Wade*, the Son of *Humphrey*, and *Alice* his Wife and her Heirs of her body begotten, leaving the Reversion in himself.

That *John Wade*, the Son of *Humphrey*, did demise the premises by Indenture 9. *May* 37. *Eliz.* unto *Thomas Pond* and *Ellin* his Wife, the Daughter of *John*, for forty years, if the said *John* lived so long.

That about the 20. of *October* 42. *Eliz.* *Thomas Pond* assigns his Estate to *John Lidgold*.

That *John Wade*, the Son of *Humphrey*, the Defendant, a little before his death, granted the Reversion to *Richard Lidgold*, depending upon the life of *John Wade*, the Son of *Humphrey*, the Defendant and *Alice* his Wife.

So that it plainly appears, That *John Lidgold* had but a trust of *John Wade*, the Son of *Humphrey*, if he had been Heir.

So, as this Case stands, the Lands of right belonged to *Dorcas*, as Daughter and Heir to *John Wollerson* and *John Hikeret* & *Anne* his Wife, Daughter and Heir of *John*, the Son and Heir of *Richard*, who was Son and Heir of *Thomas*--- { *Anne* his Wife.

To prove that *John Wade*, the Son of *Humphrey*, confessed he had no right to the premises, To prove that *John Wollerson* and *Anne* had the possession against *Margaret Lidgold*; but *Margaret* died before *John* and *Anne* could { *Tho. Easton*.
Will. Michell

That after the decease of *John* and *Anne Wollerson*, *Dorcas* their Daughter and Heir, did severall times { *Tho. Easton*.
make her entry, and alwayes laid claim to the premises, and did bring a Gentleman with her, one Mr. { *Will. Michell*:
White, when she made her entry, { *Frances Pond*.

That *John Wade*, the Son of *Humphrey*, the 28. of *March* 35. *Eliz.* sold the premises to *John Lidgold*; { *Will. Smith*, fol. 11
and *John Lidgold* sold the Reversion, after *John Wade*'s life, to *Richard Lidgold* the 10. *May* 1630. who { *Enstace Noike*
sold the same to the Defendant *William Lidgold*.

That the Defendant *Lidgold* did employ this Deponent to creep under the door, to get the possession { *Will. Barton*
from *John* and *Anne Wollerson*, { *Will. Michell*.

That *Dorcas Wollerson*, was Daughter and Heir of *Anne Wollerson*, who was Daughter and Heir of { *John Hikeret*:
John Wade, the Son and Heir of *Richard Wade*, Son and Heir of *Thomas Wade*, { his Wife

That *Dorcas Wollerson* made her Will the 17. of *Febr.* 1652. and thereby gave the premises to the { *Edm* :
Petitioner *Edmund Veale*, { *Th*
{ *R*.

That *John Wade*, the Son of *Humphrey*, about 40. years since, did deliver the possession of the called *Whites*, to *John* and *Anne Wollerson*, together with four Deeds, and declared the premises wrongfully from them,





Merton Colledge Case.

THe Mannor of *Maldon* in *Surrey* was the ancient seat of Merton Colledge, which was there founded by Walter Merton temp: Edw. 2. 10 yeares before the removing of it to Oxford, being the Mannor of best value left vnto the Colledge by the Founder.

Of this Mannor a Lease for 5000 yeares was drawne from the Colledge by vndue courses Eliz. 21. This Lease was made in shew only to the Queene, it being neuer entred into her receipts; and within lesse then two months assigned ouer to Henry Lord Fitz Allen, Earle of Arundell without any consideration: by him it was giuen within a month to Iohn Lord Lumley, who married his daughter. From whom Ione Goode, the mother of the present Tenant Iohn Goode Esquire did purchase it for 1800^l, within lesse then three yeares after the first grant from the Colledge.

This Lease was questioned by the Colledge in the Kings Bench, about two yeares since. But the Tenant wauing the Common Law, before he had put in his answer to the declaration, called the Plaintiffes into the Chancery: Where vpon opening of the cause before the Lord Keeper, his Lordsh. desiring rather to compound the businesse, then finally to decide it, and the Colledge not accepting the composition offered by the Tenant, his Lordship did order that the Colledge should prosecute this cause in no other Court, but the High Court of Parliament.

The exceptions against this Lease are these.

- 1 It is vtterly void in Law.
 - 1 By the Stat: of 13 Eliz. which restraineth Colleges from letting Leases for longer then 21 yeares, or three liues.
 - 2 By the Stat: of 18 Eliz: cap. 20. No rent corne being reserued vpon this Lease.
 - 3 By the Stat: of 18 Eliz: cap. 10. Because the Leases in being were not determinable within three yeares.
- 2 It was neuer contracted for, nor any conditions agreed vpon by the Colledge, but it was drawne at London, and the Counterpart sent ready sealed vnder the broad seale of England with a part read, crossed to be sealed by the Colledge, not alterable in a syllable.
- 3 It was made without impeachment of waste.
- 4 It comprehends the aduouson of the Church, Fines, and profits of Copyholds, and about 500 Acres of Wood, neuer demised before with the demaines. Besides a stocke of graine, & cattell to a great value, the restitution whereof at the end of 5000 yeares is couenanted, excepting such Cattell as should die of the murraine.
- 5 It was made without one penny consideration more then the Rent.
- 6 It was vnduly drawne from the Colledge.
 - 1 By threats and violence offered to the person of Dr. Bickley the then Warden.
 - 2 By terror vsed at the Colledge, affrighting the Fellowes with the presence of three Purseuants, sent thither to seize vpon such as should dissent.
 - 3 By admitting Sr Arthur Atey, who had no right of voice to giue a voice as fellow, by which voice only the Granters became the major part.

Allegations of the Adversary part, together with the answers.

- 1 That the Lease is made good by the Statute of 18 Eliz: of Confirmations.

Resp:

- 1 The very point vpon solempne argument was iudged to the contrary.
- 2 Their wauing of the Common Law is a sufficient argument, that they distrust their cause in point of Law.
- 2 That it was the concurrent opinion of the best Lawyers of those times, that such Leases and Estates were good in Law: and in this particular, Baron Altham, and Serisiant Crooke delivered their opinions in Parliament 4^o Iacob: that the Lease in question was good.

Resp:

- 1 Who were the best Lawyers of those times, were an enuious thing to determine, & what their opinions were in this point, cannot be proued.
- 2 The opinion of Popham, and Anderson, Chiefe Iustices in Parliament 43^o Elizab: was, that the Queene was bound by the Statute of 13^o Eliz: And the like opinion was resolved by the Iudges assisting in Parliament 1^o Iacob: And for that cause, Colleges, and the like were left out of the Bill, which restrained Bishops from granting to the King.

3 What Baron Althams opinion was, it doth not appeare. But 13^o Iacob : Sericant Crooke, with the rest of the Iudges determined that such Leales were not made good by the Statute of 18^o Eliz:

3 That the Colledge had a consideration sufficient in the improuement of their Rent; for the Mannor was in Lease for 23 yeare to come at nine pound Rent per Ann: And the Woods in Lease for seauen yeares without Rent, whereas vpon the long Lease 40^l per Ann: was reserved.

Resp.

1 That the Lease of 23 yeares was in it selfe void, of which, if the Colledge had taken the same aduantage, which afterwards the Lord Lumly did, the improuement of the old Rent of the Demaines by vertue of the Statute of Prouision, would haue amounted very neere to that summe of 40^l per Annum.

2 For the Woods there was 90^l (the Remainder of a former Fine) due at that time to the Colledge: for which the Queene couenanted to pay 100^l, but not one peny was paid. Whence it appeares that thoe 7 yeares remaining in the Lease of the Woods, were not to passe without some profit to the Colledge.

4 That Mistris Good 24^o Eliz: paid 1800^l for the purchase of the premisses, that she was at charge of diuerse reparations, new built a Farme house and Barnes. That the present Tenant hath bestowed in new building the Mannor house, in Gardens, Hop-grounds, improving, fencing, and inclosing the Lands 2700^l

Resp.

1 That none of that 1800^l paid for the purchase, came to the Colledge, but wholly to the Lord Lumly. All the mony that came to the Colledge, was only some smal summe sent downe to buy voices vnder hand.

2 Mistris Good was not at the charge of new building the Farme house, and Barnes but it was by an vnder-tenant at his owne charge, for his owne benefit.

3 That the charges in improving, fencing, and inclosing the Lands, was yearely rewarded with the Cropp: and was no more then Tenants vpon racked Rents doe performe for their owne benefit and aduantage.

4 That his charges of building the Mannor house is no improuement to the Land, for a Farme house had beene proportionable enough to the Land, especially as it is vndervalued by them.

5 That Master Good had of his Maiestie in recompence 22 Acres (part of this Mannor, taken into the Kings great Parke at Nonsuch) lands amounting to 10^l--10^l--4^d per Annum old Rent, which in true value may be worth 120^l per Annum, or more.

6 That since the time of the purchase, there hath beene felled vpon the premisses in Timber (besides Coppicewoods) 10000 timber trees, worth ten shillings a tree, which commeth to 5000^l. And the present Tenant in his time hath felled 5000 Timber trees, to the value of 2500^l.

7 That the Tenant hath a Recognisance of 4000^l of the Lord Lumly for his indemnitie. That the premises containe 860 Acres, and are worth per An. 440^l, whereof they haue receaued the profit 42 yeares and vpwards.

5 If this Lease should be ouerthrowne, it would open a gappe to the disturbance of many quiet and settled estates, of the like nature with this in question.

Resp.

1 That there is not, nor hath beene any Lease parallell to this in all circumstances, the difference whereof may iustly vary the decision of the cause. For example.

It is no good consequence.

1 Because a Lease of 5000 yeares is voided, therefore a Lease of 100 yeares, or thereabouts, ought to be ouerthrowne.

2 Because a Lease gotten by vndue courtes, by threats, and menaces, against the consent of the maior part is voided, therefore a Lease fairely gotten with the free consent of the Lessors ought to be ouerthrowne.

3 Because a Lease gotten without any consideration giuen for it, is voided, therefore a Lease taken vpon valuable consideration ought to be ouerthrowne.

4 Because a weake title to such land, as for a long time of it selfe hath yeilded extraordinary profit to the Tenant, is voided, the refore a weake title to Land in it selfe of little value, and improved only by the excessiue charge of the Tenant, ought to be ouerthrowne.

COPIED BY
MRS. J. C. BROWN
Oxon

MR. JOHN HERBERTS

CASE,

TOUCHING THE
Custos Brevium Office.



THE late Earl of *Pembroke* obtains several Pattents of the *Custos Brevium Office* in reversion of Sir *Henry Compton* to *Edward Hide* Esq; and *John Glyn* now Lord Chief Justice, to hold successively for the lives of his two Sons *William Herbert* since deceased, and *John Herbert*. Which Grants were so made, and so appear in the Pattents themselves at the nomination of the Earl, and for service done by him, and were in trust for him, and intended for the preferment of his younger Sons, for whose lives they were taken.

The First
Pattent
14. Carol.

The Second
Pattent
14. Carol.

In 1643. the Office falling to the said Earl, an Ordinance of Parliament places the execution in my Lord *Glyn*, though the second Trustee in remainder of *Hide*, because of *Edward Hide's* Delinquency, and absence in the late Kings Quarters.

My Lord *Glyn* is accordingly admitted to the execution of the Office for the life of *John Herbert*, but meddles not with the Profits, the late Ear. of *Pembroke's* Agents in his life time, and since the Executors, and lastly Mr. *John Herbert*, according to the Earls last Will receiving the same, being left to him as his onely maintenance from his Father in case his Wife die within Age, and without Children born alive, as she did: and my Lord *Glyn* never so much as pretended in the least to the Profits, but took onely Acquittances for his discharge, in all respects very honorably acquitting himself of the said Trust, nor was the Pattent ever in his custody, but of the said Earls and his Executors.

In April 1658. The late Lord Protector having before by Writ called my Lord *Glyn* to be Chief Justice, grants a Pattent to Mr. *Trevor*. Which Pattent recites this of Mr. *Herberts*, and then further recites that Sir *Edward Hide* is a Delinquent, and my Lord *Glyn* preferred to be Chief Justice, and thereupon an Avoidance supposed.

Mr. *Trevor* to make the Avoidance good by Law, upon the point of incompatibility (taking for granted the estate for Sir *Edward Hide's* life to be forfeited) brings a Writ of Assize for to put the Trustees out of possession, and wholly devest Mr. *Herbert* of his livelihood.

Now the Trust appearing so fully both by the Pattents and constant receiving of the Profits, there appears very strong Equity for Mr. Herbert; And that upon two undeniable and received Grounds of natural Equity. As

First, That no man should be punished for the offence of another. Sir *Edward Hides* Delinquency should not forfeit anothers Estate, who is innocent, and no ways party to his demerit; and if a Trust lodged in a well affected person, shall not in equity protect an Estate if it belong to a Delinquent (*pari ratione*) the Delinquent in equity ought not to forfeit the interest of one that is well affected, because he is trusted, not for his own benefit, but for the benefit of another. And the constant practise hath been in case of sequestration, and other forfeitures for delinquency, That if a Delinquent had a Trust, it should be sequestred, though the estate were in a person well affected; and if a person well affected had a Trust, and the Estate lodged in a Delinquent, it was not sequestred or forfeited.

Secondly, No man ought to take the advantage of his own Act to the prejudice of an innocent person: The preferment of my Lord *Glyn* to be Chief Justice, being the immediate Act of his late Highness, His Highness ought not in equity to take advantage thereof, to the prejudice, much less ruine of Mr. *Herbert*, for whom it appears my Lord *Glyn* is onely in Trust, and Mr. *Herbert* no way accessary neither to the merit of the one, nor demerit of the other Pattentee.

That as touching the first Pattent to Sir *Edward Hide* who was trusted for Mr. *Herbert's* life, Mr. *Herbert* hath no remedy but in Parliament; for in strictness of Law, in respect of Sir *Edwards* disability, the Office as to him is void, and therefore onely proper to be relieved in Parliament: Which (as he hopes) will not let him be the onely person who shall forfeit a Trust by another mans Delinquency.

And as touching my Lord *Glyn's* Pattent, in case it should fall out in Law that his promotion make an Avoidance of that Office, since it was the late Lord Protector's own act, and that my Lord *Glyn* was but trusted, that also is properly relievable in Parliament, and cannot be relieved elsewhere, and therefore most proper as to relieve before Judgement, lest if Mr. *Herbert* be put to seek his remedy after Judgement again^d may come too late for relief in Parliament, having but an elderly life to depend upon.

PHZ
MYSEVM
BRITANNICVM

To the Honourable the Committee of Parliament for GRIEVANCES.

The Humble Petition of *Edward Kinge* of *Graves-Inne* in the County of *Middlesex*, Esq;

Sheweth,

That Sir *Edward Lake* Baronet, and Official to the Bishop and Archdeacon of *Lincoln*, *John Foyne* Surrogate, *John Proctor*, *Samuel Lawson*, *Christopher Lake*, and *Thomas Winter* Ministers, and Under-officers of the said Official, by colour of their Authority, have by divers and sundry wayes and fashions committed High Offences against his Majesties Laws, Crown and Dignity; and most grievously vexed, oppressed and impoverished his Majesties Subjects within the Diocess and County of *Lincoln*, in these Particulars following.

First, Your Petitioner being a Counsellor at Law, and having delivered his Opinion in the Year 1663. to some of his Clients, That no Ecclesiastical Officer could by the Laws of the Land, form or contrive any New Oath, or give any such to any Churchwardens, or others, to present or confesse any thing, or to accuse themselves of any crime, whereby they may be liable to any pain or punishment; or impose any Articles of Enquiry upon them at their Visitations, for their own lucre and profit: The said Sir *Edward Lake*, *John Foyne*, *John Proctor*, *Samuel Lawson*, *Christopher Lake*, and *Thomas Winter*, by combination amongst themselves, cited your Petitioner into the Spiritual Court at *Lincoln*; and for suing forth Prohibitions out of his Majesties Courts at *Westminster*, and in contempt of his Majesties Laws, illegally rendered an Oath *ex Officio* to your Petitioner, to answer divers feigned and false suggestions, framed of their own fancy; denyed your Petitioner after his appearance a Copy of the said suggestions; presumed to Excommunicate your Petitioner for not taking the said Oath; and refused to absolve him, or obey his Majesties Writ of Prohibition, untill an Attachment was awarded against the said Sir *Edward Lake* for his contempt, by the Barons of the Exchequer, to his great damage and vexation.

Secondly, The said Sir *Edward Lake*, and the aforesaid Ecclesiastical Officers, in contempt of the Laws of the Land, and for their own revenge, cited your Petitioner and his Tenants of *Asbby* in the County of *Lincoln*, at their will and pleasures, without any due Accusations or Presentments against them, to appear from time to time before Sir *Edward Lake* at remote places, to take an Oath against their wills, repugnant to the Laws of the Land; and by means of such practises, illegally Excommunicated your Petitioner and his Tenants several times, to their grievous vexation, damage and expence.

Thirdly, The said Sir *Edward Lake* being Official as aforesaid, by colour of his Authority, and for his singular profit, and further oppression and vexation of your Petitioner and his Tenants, illegally signified their aforesaid Excommunications illegally denounced by himself, into his Majesties Court of Chancery, and thereupon sued forth Writs *d' Excommunicato capiend'* against divers of your Petitioners Tenants; by colour whereof the said Sir *Edward Lake* and his Ministers aforesaid, extorted from one *Robert Chevin* your Petitioners Tenant, the Sum of 3 l. 13 s. 4 d. and from one *Thomas Townrow*, another of your Petitioners Tenants, a Bond of 20 l. in discharge of the particular Sums mentioned in a Schedule hereunto annexed, which the said Sir *Edward* and his Officers pretended were due unto them: And the said Sir *Edward* gives out in Speeches, that he will in like manner compell *Anthony Bates*, *Thomas Wilkinson*, and others of your Petitioners Tenants, to compound with him for great Sums of Money, not due by Law, to their great oppression and impoverishing.

Fourthly, The said Sir *Edward Lake* and his aforesaid Ministers, caused your Petitioner in September last to be cited into the Arches, to hear himself Excommunicated, in case your Petitioner refused to pay 18 s. to the aforesaid *John Proctor*, not due by Law, as may appear by the Copy of the Citation left with your Petitioner.

Fifthly, The said Sir *Edward Lake* and his aforesaid Ministers, at their Visitations imposed a Book of Articles of Enquiry, and an Oath *ex Officio*, upon the Churchwardens of the respective Towns, Parishes and Hamlets within the County of *Lincoln*, inforcing them to buy the same at extraordinary rates, by colour whereof they exacted and extorted great Sums of Money from them; and not therewith content, compelled the Churchwardens to attend their Clerk to write their Presentments, and for the doing of the same exacted great and illegal Fees; and such as refused to take the said Oath, he punished by Excommunication, Fines and Amerciaments in his own Court; by means whereof the Country is so impoverished, as they are not able to pay their Taxes due to his Majesty, nor pay their Rents, nor maintain their Families as formerly they used to do.

Sixthly, The said Sir *Edward Lake* and his Officers aforesaid, by threats compelled divers Churchwardens, against their wills, and the rules of Justice, to Present their Neighbours for matters not Inquirable nor Punishable by Law; and in case any Churchwarden refused to obey their unjust Commands, they have been punished illegally, and vexed by Excommunication, and compelled to compound with them for great Sums of Money; by means whereof the said Sir *Edward Lake* and his Ministers have greatly enriched themselves, and extraordinarily impoverished and oppressed the Country.

Seventhly, Whereas no Procurations are due to any Bishop, Archdeacon, or other Visitor, but only from such Churches as they do personally Visit, and that not in Money, but in Meat and Drink; the said Sir *Edward Lake* and his Officers aforesaid, at every Visitation caused the Owners and Occupiers of all the Improvements and Rectories within the County of *Lincoln*, to be cited to appear before them, and Visit them at places far remote from their Parish Churches and Dwellings, to their great travel, expence and vexation; and in case any the said Persons appeared not, but made default, the said Sir *Edward* and his Officers illegally demanded the Sum of 12 d. for every such default; and for non-payment of the said 12 d. the said Sir *Edward* and his Officers illegally Excommunicated the Persons making default, and compelled them to compound with him for great Sums of Money, for such their supposed contempt.

31 E. 3. ch. 4.
3 H. 5. ch. 8.
21 H. 8. ch. 5.
Eightly, The said Sir *Edward Lake* and his Officers aforesaid, take outrageous and grievous Sums of Money, against the Laws and Statutes of the Realm, for the Probate of Testaments, and Letters of Administration, and Copies of Acts and Orders of the Court, to the great impoverishment of the Kings Subjects.

Ninthly, The said Sir *Edward Lake* and his Officers aforesaid, in Causes Ecclesiastical depending before them, (as in case of a Legacy) have taken such excessive and extraordinary Fees, that by reason thereof not only the Wills of the Testators have been unperformed, but many Executors have been ruined and undone.

Now your Petitioner humbly prays, That the aforesaid Persons may be commanded to appear before You, and make Answer unto all and singular the Premises; and that such course might be taken for the relief of your Petitioner, and such order and direction set for the redress of the present Grievances, and prevention of the like for the future, as to Your Wisdoms and Justice shall seem meet.

Novemb. 2.

1666.


And your Petitioner shall, as he is ever bound, &c.

Edw. Kinge.

A Schedule of the particular Sums demanded by Sir *Edward Lake* and his Officers, of *Thomas Townrow*, at such time as he sealed the Bond mentioned in the Articles.

Brev. d' Excommunicato capiendo	1-18-00	Cler. & Sigill.	0-05-00	Absolution.	0-09-00
Warrant.	1-02-00	Ballivo	0-10-00	Apparatori	0-02-00
Two Significavit	1-06-08	Apparatori	0-02-00	Expended by Sir Edw. Lake at the Common Law	4-00-02
Absolution.	0-09-00	For Fees of two Visitations	0-05-10		
Citatio & dismissio	0-02-06	For Allowance of the Prohibition	0-03-04		
					In toto
					10-15-06

1843/4



BRITANNICUM
MVSEVM



The Answer of Sir Edward Lake Baronet, and Doctor of the Laws, Chancellor to the Lord Bishop of Lincoln, for the Diocese of Lincoln, to the Petition and Articles given in against him to the Honourable the Committee of Parliament for Grievances, that is of the House of Commons, by Edward Kinge of Grayes-Inne Esq; as he writes himself.

TO the Preface he answers, That he the said Sir Edward Lake is Chancellor to the Lord Bishop of *Lincoln*, for the Diocese of *Lincoln*: The Title of *Chancellor* by very many Acts of Parliament being given to all Vicars General of Bishops, as the said Sir Edward Lake is; and so proceeds in that Name, and not by that diminutive Title of *Official*, which Mr. Kinge gives him. And he saith, That the general (and therefore illegal) Charge in that Preface, is most untrue and calumniously slanderous.

To the First Article; The Respondent denyeth that he, the said Edward Kinge, was cited into the Spiritual Court at *Lincoln*, for giving any such Opinion, as in this Article is suggested, or for suing forth Prohibitions out of his Majesties Courts at *Westminster*; but for other matters of clear Ecclesiastical cognisance, as by the Articles exhibited against him in that Court appears. That never any Oath *ex Officio* was there tendred to him, to answer any suggestions or matters whatsoever, as his own Proctor confesses, and as the Acts of the Court makes it appear; but was expressly told in the Court by the Respondent, That to these Articles, being, as they were, of Criminal matters, he should not answer upon Oath, but without Oath. That never was any Copy of the suggestions denyed him, which he well knows to be true, for that upon that very point the Respondent joyned Issue with him in the Exchequer, and it came to a Tryal at the Assizes at *Lincoln*, where he was overthrown upon that very point, and soon after submitted, paid the Respondent Costs of Suit, and gave in his Acknowledgement, all of his own Hand-writing, and subscribed by himself, which is hereunto annexed; and then in *May* 1665. general Releases were Sealed on both sides. That he never was Excommunicated for not taking that Oath, as in the Article, but expressly for his Contumacy in not appearing, or not answering without Oath, as appears clearly by the Acts and Writings themselves. Nor ever did this Respondent refuse to obey any Prohibition out of any of his Majesties Courts.

To the Second, this Respondent saith, That this Article is so exceeding general, having neither time nor place mentioned, nor as to his Tenants no names of them mentioned, that he humbly conceives (always referring himself to the Judgement of this Honourable Committee) that it ought not to be admitted, but rejected; and that never any such in any Courts in *Westminster-Hall*, or in any Ecclesiastical Courts in *England*, were ever admitted, nor he this Respondent bound to answer to it. Yet for satisfaction to this Honourable Committee, he answereth, That Mr. Kinge nor any of his Tenants were ever so cited, but upon due accusation, or just cause against him and them; and to appear no where but at *Lincoln*, the usual place where the Ecclesiastical Courts are kept, being but Ten Miles from his dwelling; or else at *Steeleford*, which is but Five Miles from his dwelling. And for his Tenants of *Asby*, three of them, that is, *Thomas Wilkinson*, *Anthony Wate*, and *Thomas Townrow*, Churchwardens of *Asby* aforesaid, were Excommunicated for not taking the due Oath which Churchwardens ought to take; and they getting a Prohibition, upon the suggestion of imposing an illegal Oath upon them, the Respondent joyned Issue with them, that he imposed no such Oath; they brought down (being

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or counselled, or both, by the Petitioner) their Tryals to the Assizes at *Lincoln* in Lent 1664. against the Respondent; but one *Hugh Green* a Churchwarden of *Rowsby*, a Neighbouring Town, (whom the Petitioner likewise set on, or counselled, or both) his Case being the very same, was publickly heard at the same Assizes, and upon full hearing he was Nonsuited. Thereupon the Petitioners said Tenants, as also one *Edward Brown* the Churchwarden of *Swineshead*, (another whom the Petitioner likewise set on, or counselled, or both) all withdrew their Tryals, and the Respondent must be forc'd to bring them down by Provisoos; so that they are yet depending, and it but for that cause of depending at Common Law, this Respondent humbly conceives (always referring as aforesaid) he ought not to be questioned here about that matter.

3. To the Third, this Respondent saith, It is exceeding general, as before, wanting mention of time, place, and persons, as aforesaid, other then the Petitioner, and *Robert Chevin*, and *Thomas Townrow*. As to the Petitioner, he was never signified; *Robert Chevin*, to this Respondents best remembrance, was never signified, but justly questioned, and coming in and submitting himself, and giving satisfaction, and paying to the Register the ordinary due Fees, (which this Respondent believeth were not so much as is mentioned in this Article) he was dismissed: If he conceived he had any wrong, he might have appealed. For the Petitioners other Tenants, the Cause is depending as aforesaid: And *Thomas Townrow*, one of the Churchwardens in the Article mentioned, being sued to the Writ d' *Excommunicat. capiend.* came in and submitted, and was absolved and discharged, upon paying the Fees in two Causes against him, and the expences of Contumacy, though not the same, this Respondent believeth, as in the Note annexed to the Articles, but a lesser Sum, which the Register gave him of Charges he had laid out, which were not taxed nor allowed by this Respondent, a small part of the Fees being due to this Respondent; and he hath heard that the said *Townrow* hath given Bond to Mr. *John Procter*, the Deputy Register, for payment of them, but this Respondent hath as yet received none; and after the said *Townrow* was discharged, as aforesaid, the Petitioner being let loose out of the Tower, set on, or counselled him, or both, to sue this Respondent in the Exchequer, touching that Bond and Fees, in neither whereof this Respondent meddled. The Bill is in the Exchequer of the Petitioners own drawing, with his hand subscribed to it, and a *dedimus potestatem* is issued out to take the Respondents answer in the County. And this Respondent hath given out speeches, and still doth, that he will bring down Tryals by Provisoos against the said *Bates*, *Wilkinson*, and others, that brought down their Tryals against him, and then withdrew them; and that he will have right against them if he can.
4. To the Fourth, he saith, He did not, nor believes any Officers in the Articles mentioned, did cause the Petitioner to be so cited, as in this Article, but that it is altogether false.
5. To the Fifth, he saith, It is exceeding general, as the second, and as he humbly conceives, not to be admitted, much lesse answered to, (yet always referring as aforesaid) yet for satisfaction, as aforesaid, he sayes, That he never at any Visitations imposed any such Book of Articles, nor Oath *ex Officio*, as is Articulate, nor ever enforced them to buy any such Book, nor ever had the value of a Farthing for any such Book, nor ever compelled them to go to the Clerks in the Office to make their Bills of Presentments, or to pay such Fees as are in the Article, nor ever did Excommunicate any for not taking such illegal Oath, much less did Fine or Amerce, (that being an ordinary grand Solacism of the Petitioner) Fines and Amerciaments being never heard of in any Ecclesiastical Court. And for impoverishing the Country thereby, that they are not able to pay their Taxes, it is not only most untrue, but also (always referring himself as aforesaid) most hyperbolical and ridiculous.
6. To the Sixth, he saith, as to the Second, touching the generality thereof: Yet for satisfaction, saith, That it is most untrue, and a calumnious slander upon the Respondent.
7. To the Seventh, he saith, as to the Second, touching the generality thereof: Yet for satisfaction, as before, he saith, That Procurations are due to Bishops and Archdeacons within their Jurisdictions, though they do not personally Visit their Churches, but call them to some Neighbouring place: And so the Visitations are and have been, time out of mind, duely kept by Bishops and Archdeacons of *Lincoln* at the convenient and usual places; That is, for the Petitioner and his Tenants of *Ashby*, at *Sleaford*, within Five Miles of *Ashby*; and for other parts of the County, at *Grantham*, *Sleaford*, *Folkingham*, *Horn-Castle*, *Louth*, *Rasinge*, *Gaynesborough*, and such convenient and near places. And that Impropriators, and the Rectors and Owners of Impropriations, or the Bayliffs, or Receivers of the Fruits, have time out of mind been called to the Visitations

Visitations at the said places, and some have been excused if they paid 12 *d.* for their absence or excuse; and if they appeared not, to have been sometimes proceeded against, but never signified to have a Writ *d' Excommunicat. capiendo* taken out against them: Nor ever did this Respondent demand 12 *d.* for such absence or excuse, much less did ever Excommunicate any for not paying that 12 *d.* Yet the Petitioner hath set on, counselled, or both, one *William Capps*, Farmer of the Impropriation of *Harmston* in the County of *Lincoln*, to sue this Respondent in the Exchequer for demanding 12 *d.* of him for such excuse, and for Excommunicating of him for not paying of it, both which are most false: And the Cause being commenced in *Trinity* Term last, depends there yet, and the Respondent is ready to joyn Issue with him thereupon. That antiently Procurations being due, *Ad procurandum hospitium Episcopi & Archidiaconi*, at their Visitations, the Clergy did then entertain them at their costs; but that being found inconvenient, it was by a Provincial Council above 200 years since taken away, and a constant fixed Sum set upon every Benefice: And the Petitioners Father, to this Respondents knowledge, hath often paid them, though he refuses it.

To the Eighth and Ninth, the Respondent saith, as to the Second, touching the generality thereof: Yet for satisfaction, saith, That he taketh none but most just Fees, according to antient Custom, and the Laws of the Land, for Wills and Administrations, according to the Statute of the 21 *H. 8.* in that behalf; so that he hath but 2 *s.* 6 *d.* for a Will, whatsoever the Goods come to: And for Suits for Legacies, the Fees of this Respondent are very small; and for ruining of Executors by such costly Suits, as is Articulate, is a falshood of the same stamp with that in the Fifth Article.

8: & 9.

May it therefore please this Honourable Committee, in regard of the exceeding generality of these Articles, which in the Courts of *Westminster-Hall*, and in the Ecclesiastical Courts, render them not admissible; and in regard of the dependancy of them in Courts of Law, And for that they are Matters of small moment, as this Respondent humbly conceives, (always referring himself as aforesaid;) That if they were true, as they are most false, they might be easily remedied by the ordinary course of Justice in the Courts Temporal or Ecclesiastical by *Indiments* or Appeal. And for that the Respondent hath been alwayes Loyal, hath acted something for the preservation of the Laws of the Land, and the Liberties of the Parliament, and both in his Estate and Person hath deeply suffered: And the prosecutor is Mr. *Kinge*, whose Violence both formerly and lately is very notorious; to say nothing before his Majesties happy Restauration, of which much might be said, too horrid to be related, which this Respondent passes by, in regard of the *Act of Oblivion*, though the three years therein mentioned are long since passed. And since his Majesties Restauration (to mention no more at present) in the Consistory, within the Cathedral Church of *Lincoln*, there being very many present, upon a Court day in open Court, viz. 23 *February* 1664. he threatned the Judge of the Court, and all the Officers, that he would have them all punished; and further with a loud voyce, and in an outrageous manner, speaking to the People there assembled, which were many, said, That he would strike at the Root. And this Respondent humbly conceiveth, (always referring himself as aforesaid) That there is no Root (under God) of Ecclesiastical Jurisdiction within his Majesties Dominions, but the King himself. * And for that the Petitioner multiplied many Suites against this Respondent, He himself commencing Nine; in all which he is overthrown, or hath withdrawn them, paid the Costs, and made the Acknowledgement hereunto annexed; and hath set on Five Churchwardens to sue this Respondent, who are all likewise overthrown, or have withdrawn their Actions; and yet are complained of here again. And still he sets on more, some whereof are overthrown this *Michaelmas* Term 1666. and the other depending, as above mentioned; and hath caused several Ministers, Mr. *Rellee*, and Mr. *Harrison*, to be arrested only for publishing Excommunications duly sent out, and commenced Actions of the Case against them for it. And for that the Petitioner hath presumed to offer to this Honourable Committee such a Petition and Articles so stuffed with illegal Assertions, Ineptitudes, Impertinence, clogged with gross Ignorance, Absurdities, and Solæcismes, not one Sentence in the Preface or Articles being true as concerning the Respondent

Mr. Law
Walter
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Bulfinch
Solem quod
potestatem cor
civilis.

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as he verily believeth, as concerning any of the other Parties. The Whetstone, was by Sentence of *Star-Chamber* in *Queen Elizabeth's* time, enjoined to be publicly worn by one that had offended by publishing many notorious Falshoods; and in regard the Petitioner is a notorious contentious Person, as his near Relations, and his Country know and have felt. For these Reasons and others, perhaps well known to this Honourable Committee, this Respondent humbly prays, That he may be dismissed with Costs and sufficient Reparation from the Petitioner, such as to the Wisdom of this Honourable Committee shall be thought fitting: That so this loud Noyse which he hath made, he having printed his Petition, and disperst it through the Kingdom, whereby Factious Persons are encourag'd, your Humble Respondent much disparag'd, and hindred from the lawfull execution of Ecclesiastical Jurisdiction, may be still'd, And the just execution of his Majesties Ecclesiastical Laws may be peaceably and quietly performed, to the punishment of Wickedness and Vice, and the maintenance of God's True Religion and Vertue.

Edw. Lake.

The Acknowledgement of Mr. *Kinge*.

I Do declare, That whereas I was of Opinion, that the Proceſs of the Spiritual Court ought to have the King's Armes engraven upon them, and be in the King's Name; I ſhall henceforth adviſe all my Clients and others, That the Proceſs of that Court, as it now iſſueth out in the Biſhops and other Ordinaries Name, and under their Seals, muſt be obeyed, May 2^d 1665. And I do acknowledge, and will maintain the Kings Eccleſiaſtical Lawes againſt all Oppoſers, and will not hinder the Lawfull Execution thereof.

(Signed)

Edw. Kinge.

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T H E C A S E O F

Richard Hilton, Executor of *John Hilton* Clerk his late Father,
Respondent.

To the Petition of Appeal of
Edward Scott Administrator of
Thomas Scott, Appellant.

The Respondent's C A S E.

John Hilton having formerly married *Winifred*, Sister of *Thomas Scott*, and *Edward Scott* the Appellant, with whom he had 300*l.* Portion, which as he has heard was not so much as was due to her, by whom he had no Children: The said *John Hilton*, lived with the said *Thomas Scott* several Years after the Decease of his Wife, which occasioned a great Friendship between them: And *Thomas Scott* having an Estate in Land, of the value of 500*l.* per Annum, in the County of *Stafford*, and 1000*l.* personal Estate; and having no Child, and the said *John Hilton* after the Decease of *Winifred*, having with the Approbation of *Thomas Scott*, married a Relation of his, by whom he had Issue the Respondent, the said *John Hilton*, was, as this Respondent has heard in expectation, That the said *Thomas Scott* would leave him a good Legacy at his Death.

But *Thomas Scott* being narrowly watched by the Appellant and his Friends, to prevent his Disposition of any part of his Estate from them; this Respondent's Father dying in the life time of the said *Thomas Scott*, to whom the Appellant is Executor: And *Thomas Scott* in the Year 1694, meeting with the Respondent, told him, He had something for him; whereupon the Respondent visiting him soon after at his House, he privately delivered to this Respondent the Bond now in Question, made in the Year 1667; whereby *Thomas Scott* became bound to *John Hilton* in the penal Sum of 1000*l.* conditioned for the payment of 200*l.* and Interest from the Date of the Bond six Months after the Death of *Thomas Scott*, and 20*l.* without Interest; which Bond, the said *Thomas Scott*, directed the Respondent to keep Secret till after his Decease; otherwise he should live but an uneasy Life; which accordingly this Respondent did, save only, that he privately shewed it to some of his Friends to take their Advices thereupon. *Thomas Scott* dying about the Month of *March* 1699, and the Money six Months after becoming payable, and the Appellant refusing to pay the same, who was Heir and Administrator to his Brother, the Respondent imployed an Attorney of *Warwickshire*, who lived near this Respondent to put the Bond in Suit, which he did accordingly in *Warwickshire*, and the Appellant pleading that the Bond was not his Brother's Deed; and Issue being joyned upon that Plea, after a Trial of several Hours, a Verdict was found for the Respondent, that the Bond was well Executed: But in regard there was great variety of Proof on both sides, and the Debt recovered, being very considerable, the Judge before whom the Cause was tryed, was pleased to Certify, That upon the Appellants payment of Costs, it was fit the Cause should be tryed again.

Pending which Suit, and before the second Tryal, the Appellant exhibited his Bill in the Court of Chancery, to discover and be relieved against the said Bond (although the Matter was meerly tryable at Law) unto which an Answer was put in, and Witnesses examined to perpetuate their Testimony, and at the next Assizes held for the County of *Warwick*, the Cause came on to be try'd a second time, and the Respondent being informed, That the Appellant had very unfairly retain'd a great number of Attornies in the Solicitation and Management of the same, who had made mighty Application in his Favour; this Respondent without attending the Success of the Cause, became Non-suted.

And forthwith brought a new Action in the County of *Salop*, but before the Cause came on to be tryed in that County, the Appellant brought on his Cause in Chancery, to be heard, upon which, the Court was pleased to direct that the Parties should proceed to try the Cause in the County of *Salop*, being an indifferent County, altho' great Endeavours were used at the Hearing, to carry the Cause into the County of *Stafford*; where the Appellant has great Interest and Power) where the Bond was duly Executed by *Thomas Scott*; and in order to put a final End to this Cause at the next Tryal, the Court directed that the Cause should be tryed by a Jury of Gentlemen of Quality of that County, and accordingly such a Jury was returned; and at the next Assizes, the Cause coming on to be tried, the Respondent produc'd a Specification of the Bond, but the same not being exactly according to the Act of Parliament, although the Duty was paid to the Receiver; yet the Appellants Council insisting thereupon (although most unreasonably) the Respondent was for that Cause only, Non-suted; and upon Application made by the Appellant, the next ensuing Term unto the Court of Chancery, for the Costs of that Non-sute; the Respondent was order'd to pay Costs to be taxed by one of the Masters of that Court, which were accordingly taxed to 50*l.* which the Respondent was forced to pay (although 'twas very extraordinary) before he could have a new Trial.

And a new Trial was had the last Lent-Assizes held for the County of *Salop*, upon the former Issue, by a Jury of Gentlemen of great Quality, who, after a Tryal which lasted eleven Hours, a Verdict was given for the Respondent, that the Bond was the Deed of *Thomas Scott*.

Whereupon the Parties resorting back to the Court of Chancery, the Cause coming on to be heard upon the Equity reserved the 8th of *May* last, after the said Tryal had, the Appellant endeavoured to obtain a new Tryal, which the Court after two Verdicts for the Bond, refusing to grant the Appellant not praying any Relief against the Penalty of the Bond; his Bill was dismissed with 20*l.* Costs: And the Respondent's Judgment at Law being entred, the Respondent took out Execution against the Appellant's Goods in the County of *Stafford*, where the Sheriff might have levied the Respondent's Debt, Interest and Costs, which was all he expected.

But the Appellant being a Man of Interest and Power there, the Sheriff never levied one Penny of the Respondent's Debt, which he at last hoped he should have had: But instead of that, the Appellant Petitioned the Court to rehear the Cause, which was accordingly reheard; and then the Appellant again pressed the Court for a new Tryal, which was again refused, and not prevailing in that they were by the Decree relieved against the Penalty of the Bond, upon the payment of 20*l.* Costs, the principal Money and Interest being directed to be computed by the Register, which was then promised to be paid, and which the Respondent hoped he should have had, after so many Tryals and such Agitation in the Court of Chancery; and after near as much Money spent by the Respondent as the whole Debt amounts unto: But the Appellant being near 86 Years of Age, the Respondent believes that he is incouraged by his Relations to bring this Appeal for Delay, for in Case he should Dye before the Respondent has receiv'd his Money, the same will be in great Danger of being wholly lost, after all the Expences the Respondent has been at, by which he has in a great Measure spent good part of his own Estate, which was but small, in the Recovery of his just Right.

Wherefore the Respondent well hopes that this Honourable House, will, considering the Justice of the Respondent's Case, dismiss the Appellant's Petition of Appeal, with Exemplary Costs.

Witness my hand & seal this
29 Feb. 1703.

W. BANASTRE.

THE
CASE
OF
EDWARD SCOTT,
APPELLANT.
AND
RICHARD HILTON,
RESPONDENT.

The Respondent's Case to be heard
the 15th of *February*.

1703.



An ABSTRACT of the CASE.

Williams being left an Estate of 687 *l. per Ann.* by *Thomas Williams*, charged with his Debts, and the Debts of *Richard Williams* his Brother, articted with *Colonel Cornwall* for sale thereof, for *l.* and the Colonel to pay to two Widdows that had Joyntures upon the Estate, the yearly Sum of 580 *l.* during their Lives, and to an Infant, Daughter of *Thomas*, the sum of 3000 *l.* and 'till, or Marriage, the yearly Sum of 150 *l.* the Interest thereof, for her Maintenance, which in the whole makes 730 *l. per ann.* and is more than the yearly Rent of the Estate by 43 *l. per ann.* and ad- the Interest of the 4500 *l.* makes 313 *l. per ann.* more than the Rent of the whole Estate, which the Colonel was to pay 'till one of the Joyntures fell in.

Presently after the Articles executed, and after the Purchase-Money raised, and part paid, one of the Widdows died, which occasioned the Obstruction in the Purchase; whereupon the Appellant preferred a Bill in Chancery against the Infant and her Mother, and the said *David* and *Henry Williams*, to have the Articles perform'd, which the Lord Keeper dismissed, in regard the said *David Williams* had articted for sale of the Estate, not as Executor and Trustee to pay Debts, but, as Devisee of *Thomas*, in his own right. Wherefore the Colonel appeals to your Lordships, for relief against the said Dismission, and that the Articles may be performed, and his Purchase established.

etc. The Debts on the Estate are more than 'tis worth, and *Elizabeth*, the Relict of *Thomas Williams*, had articted with *David Williams* for the same, but thought 'twas too dear, and by her Importunity prevailed to be discharged from the said Articles; and then *Colonel Cornwall*, at the earnest Desire of the said Trustees and Creditors, was prevailed on to become the Purchaser: At which time the two Joyntures, the Infant's Maintenance, and the Interest of the 4500 *l.* did exceed the Revenue of the whole Estate, above 300 *l. per ann.* besides Taxes and Repairs; so that when bought 'twas a very dear and hard Bargain. Therefore, if since the Purchase the Bargain is better'd by the falling of a Life, that Accident ought not to be turned to the Purchaser's disadvantage, nor made use of to defeat his Purchase.

The CASE of the Honourable *Henry Cornwall*, Esq; Appellant, against a Decree of Dismission, and against a Decree made in the Court of Chancery, the 8th of July last, in two Causes; wherein

The Appellant was Plaintiff: *Elizabeth Williams*, Widow, *Elizabeth Williams* her Daughter, *David Williams* Doctor in Physick, *Henry Williams*, Gent. } Defendants. And the other, wherein *John Page*, Dr. in Divinity, *Marmaduke Gwyn*, Esq; and others Creditors of *Richard Williams* and *Thomas Williams* deceased, were } Plaintiffs: *David Williams*, Dr. in Physick, *Henry Williams*, Gent. *Elizabeth Williams*, Widdow, *Elizabeth Williams*, Spinster, *Henry Cornwall*, Esq; } Defendants.

Richard Williams, Esq; was in his Life-time seized in Fee of several Mannours, Messuages, Lands, and Hereditaments, in the Counties of Brecon, Radnor, and Hereford; and being so seized, he did, by his last Will in writing, devise to his then Wife a yearly Rent-Charge of 250 *l.* issuing out of the Premises, for her Life, and in lieu of her Dower; and devised the Inheritance of his whole Estate to his Brother *Thomas Williams*, charged with the Debts and Legacies of the Testator. Soon after *Richard* died, and *Thomas* his Brother became seized of the Premises. And in consideration of a Marriage, and 3000 *l.* Portion, he,

22, & 23. By Indentures of Lease and Release settles part of his Estate to the value of 330 *l. per Ann.* upon the said *Elizabeth* his then intended Wife for her Joynture, and settled the whole Estate, (being about 680 *l. per Ann.*) upon the Issue-Male of that Marriage, with a Remainder to himself and his right Heirs; and there is a Provision made, That if *Thomas* died without Issue-Male, and left one Daughter, that then the Premises should be charged with 3000 *l.* to be paid to that Daughter at her Age of 21 Years, and in the mean time, and until she attain that Age 150 *l. per Ann.* for her Maintenance. The Marriage took effect, and the said

18. May, *Thomas Williams* (having then no Issue) made his last Will in Writing, and thereby charged his Estate with the Payment of his Debts, and devised so much of it should be sold, as was necessary for that purpose, and devised the whole Estate (so charged) unto the said Defendant Doctor *Williams*, and to his Issue-Male; the Remainder to *Henry Williams*, and his Heirs for ever: And he made Doctor *Williams*, who had married the Testator's Sister, and was the next Heir Male of the Family, his Executor.

29 May, *Thomas Williams* died without Issue-Male, leaving only one Daughter, the Defendant *Elizabeth* the Infant, then about three Months old. Immediately after the Decease of the said *Thomas Williams*, Doctor *Williams* entred, and being in quiet Possession in the Premises, and finding the Debts and Incumbrances were more than the Estate would answer, he (thinking it most proper for the Widow) did propose to sell the Estate to her: She at first accepted the Proposal, and articted with Doctor *Williams* for the Estate; but after she desired to be released from those Articles, which the Doctor contracted with, and she acknowledged the favour.

Then the Doctor and *Henry Williams* proposed to sell the Real and Personal Estate to the Appellant, who (having other Mannours near unto the Estate) they well knew would be the best Purchaser. And after several Meetings

14 Januar. Articles were executed between Doctor *Williams*, *Henry Williams*, and the Appellant; by which they Covenant to Convey the Fee simple of the Real Estate, and all the Goods and Stock thereon (which had been the Goods and Stock of *Thomas Williams*) unto the Appellant; and in consideration thereof, the Appellant did covenant and agree to pay 200 *l.* for the Personal Estate, and to pay down 4500 *l.* for the Real Estate, and 3000 *l.* to the Defendant *Elizabeth* the Infant, when she attained her Age of 21 Years, and 'till then, one hundred and fifty Pounds *per Ann.* for the Interest of it: And the Appellant did agree to pay to the Relict of *Richard Williams* (then the Wife of Doctor *Page*) the Rent-Charge of 250 *l. per Ann.* for her Life, and to permit the Defendant *Elizabeth*, the Widdow of *Thomas*, to enjoy 330 *l. per Ann.* for her Life; and Defendants Doctor *Williams* and *Henry Williams* did Covenant to pay the Debts of *Richard* and *Thomas Williams*.

Upon the executing the Articles, Possession of the whole Estate was deliver'd to the Appellant; who, whilst Fines and Conveyances were preparing for perfecting the Sale, did provide the Purchase-Money, and did disburse several considerable Sums for Taxes and Repairs, and by direction of Doctor *Williams* did actually pay, in part of the Purchase-Money, 1029 *l. 3s. 4d.* a Debt upon the Estate, secured by a Mortgage of part thereof, to one *Oades*, and paid to Doctor *Williams* 300 *l.* more, not doubting but the Articles would have been speedily and punctually perform'd.

But the Relict of *Richard Williams* (the Wife of Doctor *Page*) happening to die before the Conveyances were perfected, the Defendant the Widow gave out, that Doctor *Williams*, and *Henry Williams*, had no power to sell the Real Estate, and that by the Will of *Thomas*, the Defendant *Elizabeth* the Infant was entituled to it; and this obstructed the Purchase.

29 Januar. Then the Appellant preferred his Bill against the Defendants, to discover their respective Titles, and to have a specific Performance of the Articles; and the Defendants *Elizabeth* the Widdow, and *Elizabeth* the Infant, insisted, by their Answer, upon the Will of *Thomas*.—Then the Creditors preferred their Bill, and their Debts were admitted by all the Defendants.

8 July, The Causes were heard by the Lord Keeper, the Question did arise upon the Will of *Thomas*, wherein, after the Real and Personal Estate were charged with the Testator's Debts, is this following Clause, *In case he die without Issue, or the Issue begotten by him should die without Issue of his, her, or their Bodies, or the Estate limited by the Settlement shall happen to determin or be spent: And he does give unto his Kinsman David Williams, whom he appointed to pay all his Debts and Legacies, and upon Condition he pay the same, all his Mannours, Messuages, &c.*

Upon the hearing the Court decreed, That the Appellant's Bill should stand dismissed; and has thereby defeated the Appellant's Purchase, which is conceived ought not to have been defeated for many Reasons.

First, For that in the Construction of Wills, the Intention of the Testator is principally to be regarded; and it manifestly appears the Testator intended these two things, (1.) That his Debts should be paid. (2.) That after Payment of his Debts, the Heir-Male of his Family should have what remain'd of his Real Estate.

That this was the Testator's intention, appears by the Marriage-Settlement, by the Will, and by many Verbal Declarations of the Testator.——By the Settlement the Estate is limited to the Issue-Male, and an ample Provision is made for the Daughter by the Express Words of the Will, and the Estate is devised to Doctor *Williams*, charged with the Debts, if the Estate limited by the Settlement (which was on the Issue-Male) happen to determin, or be spent; and 'tis proved in the Cause that after making the Settlement, and before and after the making the Will, the Testator frequently declared, that if he died without Issue-Male, his Kinsman, Doctor *Williams*, should have his Estate.

Note, The whole Estate, when the Appellant articted for the Purchase of it, was but 687 *l. per Ann.* in Possession and Reversion, and that the Rent, Charges, and Annuities amounted unto 580 *l. per Ann.* (besides the 150 *l.* for the Infant's Maintenance).—That the said Appellant was to pay 4500 *l.* to Doctor *Williams*, and 3000 *l.* to the Infant at her Age or Marriage, in all 7500 *l.* which was by all Persons look'd upon to be a dear Purchase; and had not the Relict of *Richard Williams* died, 'tis presumed the Sale had not been obstructed.

Note, If the Articles had been performed, the Debts had been satisfied ere this time; and if the Dismission and Decree be reversed, the Creditors will soon be paid their Debts, the Purchase-Money being ready. But if the Dismission and Decree stands, the Creditors cannot receive satisfaction in many Years.

Therefore the Appellant doth humbly pray the Decree may be reversed.

affirmed 12 April 1701.

THE
C A S E

Of the Honourable

Henry Cornwall, Esq;

Upon his Appeal from a Decree
made the 8th of July last, in the
Court of Chancery.

1701

Dobson, Appellant.

Hearne, Respondent.

The Respondent's Case.

**To be heard Monday the
24th of Jan. 1703.**

William Dobson, Cleric Appellant.
Gilbert Hearne, Gent. Respondent.

The Respondent's Case.

THE Appellant complains that his Bill in Chancery is dismissed touching the Office of Register of the Consistory Court of the Diocels of Hereford.
The Appellant makes Title to the Office by Two several Grants,

First Grant to the Appellant, 1 July, 1689.

The First Grant was made by Bishop Crofts (since deceased) to the Appellant, and his Brother in Law Griffith Reignolds since deceased.

As to this Grant the Respondent insists,

First, That this Grant was Forfeited and became Void; for that neither the Appellant nor Reignolds received the Sacrament, and took the Oaths, and subscribed the Declaration required by the Statute of the First of William and Mary.

Nota, The Appellant admits that Mr. Reignolds did not comply with that Act, but insists that he himself did, which he never yet could prove or make out, and in truth he was but *A bare Trustee* for Reignolds, And by his Appeal admits that Reignolds was to receive the whole Profits for his Life.

Secondly, This Grant howsoever became Void by the Death of Bishop Crofts, because it was not duly confirmed by the Dean and Chapter, Their Seal being put to it in the Presence only of the Dean and One of the Canons, Another of the Canons (Mr. Watts) who was there before this matter was proposed, being by Contrivance called out of the Chapter-house because they knew he would oppose it.

The whole Number of the Canons were Six.

The Second Grant to the Appellant and Respondent, 18 Sept. 1693.

The Appellant now by his Appeal likewise Claims under this Second Grant made by Bishop Ironside.

But as to this Grant the Respondent insists.

First, That the Appellant has forfeited the Benefit of this Grant, For that he never took the Oaths, nor made the Subscription, according to the said Statute of the 1st of William and Mary, Nor does so much as pretend that he did.

Secondly, The Appellant admits in his Appeal (as the truth is) that this Grant was Never Confirmed by the Dean and Chapter, and therefore it became Void by the Death of Bishop Ironside.

Thirdly, The Appellant all along pretended that this last Grant was obtained without his privity, by an Agreement between Reignolds only and the Respondent, which was made between and subscribed by them at the instance of Serjeant Geeres since deceased, and therefore the Appellant refused to be bound by it.

The Respondent's Title, 25 Sept. 1694.

The Appellant Refusing and not Qualifying himself to act under the said Grant of 18 Sept. 1693. The Respondent, the said Gilbert Hearne, surrendered to Bishop Ironside, And the said Bishop thereupon made a new Grant to the said Respondent alone of the said New Office, which was duly confirmed by the Dean and Chapter.

Mr. Hords, who is a Joint-Plaintiff with the Appellant in Chancery, taking upon him notwithstanding to detain the Books, and get what Profits he could of the Office, under the pretence of acting by Deputation from Reignolds and the Appellant.

First Tryal in Lent Assizes, 1695.

The Respondent brought an Action of the Case against Hords for Fees of the Office, and upon a long Tryal at Hereford Assizes had a Verdict against him, And afterwards upon Motion the King's Bench Court refused him a new Tryal.

The Second Tryal, 14 March, 1695.

Afterwards the Respondent brought his Writ of Assize at Hereford Assizes against the Appellant Dobson, and also against the said Reignolds, which was tried before both the Judges of Assize; And after long Evidence on both Sides, the Recognitors of Assize gave a Verdict for the Respondent Hearne, and Assessed him 300 l. Damages; And thereupon he had Judgment, And upon a writ of Seisin to the Sheriff was put into Possession, and has ever since enjoyed and executed the said Office.

Nota, At both these Tryals the Respondents Council admitted the Grants under which the Appellant claims, and put the Appellant Dobson to prove that he had qualified himself according to the Statute, and he examined several witnesses to that purpose, but could not prove it.

Bill filed Hil. Term. 1694.

The Appellant, together with his Deputy Mr. Hords, brought a Bill in Chancery against the said Respondent, and also against Serjeant Geeres, and Mr. Reignolds, complaining of the Agreement before mentioned, and that he was not privy to it, and that without his Consent Serjeant Geeres had cancelled his First Grant, and delivered it up, and prayed that both the same Grants wherein he was named might be delivered up to him, and that he might have an Accompt of the Profits, and be quietted in the Possession of the Office.

The same Term.

The Respondent Hearne answered that Bill, and denied all the Equity of it; But notwithstanding the Appellants specious Complaint against Serjeant Geeres for cancelling his Grant (who was well able to make him satisfaction) he never proceeded to get an Answer from him nor afterwards from his Executors.

1 June 1703. Appellant's Bill dismissed.

The Appellant never proceeded further upon this Bill for Four years, and then examined Hords and Serjeant Geeres as witnesses in Town, and then rested till Decemb. 1702. and then took out a Commission to examine more Witnesses, and brought on his Cause to a Hearing before the Lord Keeper, who was pleased to dismiss the Bill.

Wherefore after Two solemn Tryals at Law, where the Appellant made his defence, and attempted to prove the same thing he now insists upon, (*viz.*) That he had qualified himself for that Office, but fail'd in the Proofs of it, under which Tryals he hath acquiesced so many Years,

The Respondent humbly hopes the said Appeal shall be dismissed with Costs.

W. Banister.

William Dobson Clerk, *Gilbert Hearne & al.*
Appellant. Respondents.

The Appellant's CASE.

THAT the Appellant and one *Griffith Reignolds* (since deceas'd) having married two Daughters of *William Bowdler* (who had obtain'd a Grant to him and the said *Reignolds* of the Office of Register and Scribe to Dr. *Herbert Crofts* then Lord Bishop of *Hereford*) and upon the Death of the said *William Bowdler* the Appellant and *Reignolds* took a new Grant under the Episcopal Seal from the said Lord Bishop *Crofts*, dated ' 1 July 1689. to them for their Lives and the Life of the Survivor of them, to be executed by them or either of them, their or either of their Deputy or Deputies; which Grant was on the ' 9th of *August* following confirm'd by the Dean and Chapter under their COMMON SEAL, and the Appellant at the ' Midsummer Sessions of the Peace for the County of *Southampton*, where he then resided, took the Oaths, and subscrib'd the Declaration according to the Act 1^o *William and Mary*: and on the ' 23d of *April* 1691. the Appellant was admitted to the said Office in the Consistory Court, where he took the Oaths for the due Execution thereof, and also the Oath to the King and Queen; and at the Quarter Sessions 14 July following he brought a Certificate of his receiving the Sacrament, and took the Oaths appointed by the Act 1^o *William and Mary*, and subscrib'd the Declaration; and the said *Griffith Reignolds* executed the said Office until the Appellant's admission therein, and from that time the Appellant by his Deputy Mr. *Hords* executed and enjoy'd the same during the Life of Bishop *Crofts* (who died in 1691) and after his Death until the Tryal had upon the Writ of Affize in 1695. herein after mention'd.

' 1 July 89. Grant to Appellant and Reignolds.

' 9 August 89. Confirmation by Dean and Chapter.

' Midsummer Sessions Appellant took the Oaths, and subscrib'd the Declaration.

' 23 April 91. Appellant admitted and sworn in the Consistory Court, and took the Oaths at Midsummer Sessions.

That Dr. *Ironside* being constituted Lord Bishop of *Hereford*, and apprehending that the Grant to the Appellant and the said *Reignolds* was void, because the said *Reignolds* had not qualified himself by taking of the Oaths, did in *November* 1692. grant the Office to his Nephew the Respondent *Hearne*, which Grant was never confirm'd by the Dean and Chapter; however the Respondent brought an Action

Novemb. 1692. Grant to Respondent Hearne.

Summer Assizes 1693.
Agreement between
Reignolds and the
Respondent.

12 August 1693. Ser-
jeant Geers's Note.

Action against Mr. *Hords* the Deputy of the Profits of the Office; which being ready for Tryal at *Hereford* in Summer Assizes 1693. it was agreed between the said *Reignolds* and the Respondent (without the Appellant's consent or privity, he being then many miles distant) that the said former Grant to the Appellant and *Reignolds*, and the said later Grant to the Respondent should be cancel'd, and a new Grant taken to the Appellant and the Respondent *Hearne*, for their Lives and the Life of the Survivor of them. In pursuance whereof, the Grants were by consent of *Reignolds* and the Respondent *Hearne* deliver'd to Serjeant *Geers*, who by a Note dated 12 August 1693. did acknowledg the Receipt of the said two Grants, and declar'd that the same were deposited in his hands, *to the intent that a new Grant might be taken to the Appellant and Respondent Hearne, and the Survivor of them, and the Profits thereof might be enjoy'd by them and the Survivor of them, and that the same should be confirmed by the Dean and Chapter, and that the manner of the Receipt of the Profits, and the Accounts of the Office were to be settled by Articles to be seal'd within two months after, as he and Robert Price Esq; (now one of her Majesty's Barons of the Exchequer) should advise. To which Note Reignolds and the RESPONDENT DID AGREE, AND SUBSCRIB'D THE SAME.*

18 September 1693.
Grant to the Appellant
and Respondent.

In pursuance of which Agreement (*without the Appellant's privity or consent*) the said Serjeant *Geers* proceeded to take a new Grant from Bishop *Ironside* to the Appellant and Respondent *Hearne*, dated 18 Septemb. 1693. and thereupon, and before such Grant was confirm'd, or any Article executed pursuant to the said Agreement, *and without the Privity or any Authority either from Reignolds or the Appellant, the said Serjeant cut off the Seals, and cancel'd the Grant made by Bishop Crofts to Reignolds and the Appellant, as is indors'd on the said cancel'd Patent, to which Indorsement the said Serjeant Geers, Henry Knight, and Tamb. Hords are Witnesses; and also the other Grant, made by Bishop Ironside to the Respondent Hearne, was cancel'd at the same time, and both the said cancel'd Grants were left with Bishop Ironside.*

Septemb. 1694. Grant
to the Respondent.

The Respondent *Hearne* after the cancelling of the Grant to the Appellant and *Reignolds*, procur'd a new Grant from his Uncle Bishop *Ironside*, of the Office to himself (*solely*) in or about the month of September 1694. and taking advantage of the cancelling of the Grant to *Reignolds* and the Appellant (which he had also procur'd to be deliver'd to him by Bishop *Ironside*) brought his Affize against *Reignolds* and the Appellant for the Recovery of the Office; and the Tryal coming on at *Lent*-Assizes 1695. it was with difficulty that the Judg oblig'd the Respondent *Hearne* to produce the cancel'd Grant to the Appellant and *Reignolds*; and when produc'd, *it appearing that the Seals were cut off*, it was not allow'd to be read in Evidence, or the Witnesses thereto examin'd: and the Respondent obtain'd a Verdict, and got the possession of the said Office, which he and his Deputy have held and enjoy'd ever since.

May. 1694. Appel-
lant's Bill filed.

Before the Recovery in the Assize, viz. in *Hilary* Term 1694. the Appellant exhibited his Bill in Chancery against the Respondent *Hearne & al.* to have the Grant to the Appellant and *Reignolds* deliver'd

liver'd up and an account of the Profits, and to be settled in the quiet Possession of the said Office; and having after great Delays us'd by the Respondent, obtain'd an Answer, and by proofs made out his Right, as aforesaid, on the 1st of June 1703. the Court upon the hearing the Cause did Decree, That the Appellant's Bill should be dismiss'd, *but yet without Costs.*

1 June 1703. Order of Dismissal of the Appellant's Bill.

That the Respondent *Hearne*, before such Bill exhibited by the Appellant, exhibited his Bill in Chancery against Serjeant *Geers*, *Reignolds*, *Hords*, and the Appellant, to enforce the Execution of the said *Agreement* made between him and *Reignolds*; and suggesting that the Appellant was a Trustee for *Reignolds* (which he never was) but in regard that *Reignolds* had his Life in the Original Grant to him and *Bowdler*, and the Appellant and he took the Grant before mention'd from Dr. *Crofts*; and they having married two Sisters, the Appellant about a Year after came to an *Agreement* with and gave Bond to *Reignolds*, that he should receive the Profits for his Life; which Bond was afterwards cancel'd: but the Respondent did not think fit to proceed on his Bill, and *Reignolds* died in 1696.

Respondent's Bill in Chancery.

That the Respondent at the Hearing of the Cause did and doth pretend, that the Grant made to the Appellant and *Reignolds* was not well confirm'd by the Dean and Chapter of *Hereford*, there not being the major Number of Canons then actually assembled, as is pretended at the confirmation thereof; whereas there are but six Canons. And by the Books of the Acts of Confirmation it appears, that the Majority were present: and in case there had not been a Majority actually present, yet by the receiv'd and common Custom and Practice in such Confirmations, the absent Canons may make an *op* of the Canons present their *Proxies* to consent thereto; and such Consent hath the same effect as if they were actually present. And the absent Canons did consent by their *Proxies* to the Confirmation, and the Common Seal was duly affix'd thereto. And it's humbly conceiv'd, that if such Confirmation should not be allow'd to be good, it would defeat all Acts done by *Reignolds* and the Appellant and his Deputy; which in the Execution of a Place of so great Trust for several years, and during a time of much publick Business, would be very mischievous.

Upon the whole matter it is humbly conceiv'd that the said Order for *Dismissal* of the Appellant's Bill ought to be repeal'd, and the Appellant reliev'd in these Particulars.

1. A Decree ought to have been for him to enjoy the Office for his Life, ^{and} the cancel'd Grant supported.
2. An Account of the Profits ought to have been directed, and a Moyety allow'd to the Appellant, according to the Agreement between *Reignolds* and the Respondent.
3. Or at least an Issue ought to have been directed to be try'd at Law, and the cancel'd Grant allow'd to be given in Evidence.

Wherefore the Appellant humbly hopes that the said Decree or Order of *Dismissal* shall be revers'd, and he reliev'd in the Premises, as shall be just and reasonable.

R. Thornhil.

William Dobson Clerk, Appellant.

Gilbert Hearne & al. Respondents.

The Appellant's CASE.

Appellant. *John Laurence, Esq;*

From an Order or Decree
made in the Court of
Chancery the 26th of
February last.

Respond^{ts}. *Robert, Daniel, Elizabeth,
Jane, George, John Blach-
ford. John Leigh, Tho.
Urry, Will. Taylor, and
Grace his Wife, Edmund
Challoner, and Arthur
Lake.*

The Appellant's C A S E.

By Indentures
of Lease and
Release dated
27 & 28. July
1681.

Eustace Man, on his Marriage Convey'd the Mannor of *Ausborne* and Lands in *Com' Southton*, to *John Leigh*, deceas'd, and *Will. Taylor* for 500 years, in Trust, to Raise 2000 *l.* for a Daughters Portion (if he should have but one) to be paid at her Marriage, or Age of 21, which should first happen.

9. Octob. 1695.

Eustace Man, having Issue *Eliz.* his only Daughter, by Will gave the Respondents the *Blachfords* (his Sister's Children) 250 *l.* a piece (in the whole 1500 *l.*) to be paid within 6 Months after his Daughter's Marriage, or Age of 21; and gave his Fee Farm Rents (being about 153 *l. per An.* to his Daughter, and all his Mannors and Lands (about 450 *l. per An.*) to *Ann Man*, since deceas'd, and the Respondent *Taylor* and his Wife, from his Death, for 60 Years, in Trust by Profits, Mortgage, or otherwise, to raise Money for Payment of his Debts and Legacies; and Subject to that Term, gave the same to his Daughter and the Heirs of her Body; and for default of such Issue, to the Eldest Son of his Sister *Blachford* and his Heirs.

15 Nov. 1695

Eustace Man died.

10 Jan. 1699.

The Appellants Estate was settled upon the Heirs Male (if any) of this Marriage.

By Articles betwixt the Appellant *John Laurence*, *Eliz. Man's* Guardians, and the Respondents *Leigh* and *Urry*, in order to the Appellant *John's* Marriage with *Eliz.* It was agreed, the Appellant *John* should joyn with *Eliz.* when at Age (she being then not 18) in Settling all her Estate to her for Life, [Remainder to him for Life] Remainder to their first and other Sons in Tail Male, Remainder to their Daughters in Tail, Remainder to her right Heirs.

Upon the Consideration of which Settlement to be made, whereby the Appellant was to have an Estate for Life in his Wifes Estate, he did, together with his Trustees (by Mortgage of an Estate in *Kent*, of about 84 *l. per An.*) take upon him the Payment of the 1500 *l.* Legacies, to the Respondents the *Blachfords*. But with this Express Condition in the Indorsement upon his Mortgage Deed, Signed by *Ann Man*, since deceas'd, *William Taylor*, and *Grace* his Wife, *Elizabeth's* Guardians. The same to whom the Term of 60 Years was by Will devised.

The Indorsement on the Mortgage for the 1500 *l.* Legacies.

That, whereas, by Means of a Marriage, and the said Settlement Agreed to be made, the Appellant *John* expected to be well Intituled to an Estate for his Life in all the Lands, Tenements, and Hereditaments whereof the within Named *Eliz. Man* his intended Wife is Seis'd. And for that [Only Reason] is induc'd to make the within written Mortgage. But forasmuch as it may happen that the said *John Laurence* may be disappointed of such Estate for his Life. It is now therefore fully Agreed, and Declared by the several Mortgagees, that no Use shall be made, or Advantage taken, of the Mortgage, until such time as the said *John Laurence* shall be well assured of an Estate for his Life, in his said intended Wives Estate, or sufficiently secured the Repayment of his 1500 *l.* upon failure of having such Estate for Life, as aforesaid.

If the Money had been paid (as it was not the Appellants fault) the Trustees must then have assigned their Term of 60 Years, upon which Security, the Appellant, without further Trouble, might have repaid himself from his late Wifes, now the *Blachford's* Estate.
* 3 Aug. 1701
† 26 Feb. 1703.

At the Sealing of which Mortgage, and Articles, the Trustees of *Eliz.* requir'd the Appellant *John* to acknowledge a Statute of 10000 *l.* for Performance of the Covenants in the said Articles. By which Statute the Appellant was disabled from Raising the Money on his Mortgaged Lands. So that the 1500 *l.* still lies upon his late Wives Estate, as it was Charg'd by her Father *Eustace Man* by his Will. The Guardians *Ann Man*, *Will. Taylor*, and *Grace* his Wife not giving the Appellant the Security agreed to be given by them in their Indorsement on his Mortgage-Deed.

* *Elizabeth*, the Appellant's Wife lived with him only 18 Months, then died Under-Age, without Issue.

Upon whose Death, the Respondent, *Robert Blachford*, became intituled to all the said Mannors, Lands, and Rents, worth about 500 *l. per An.* Subject to the Payment of *Elizabeth's* Portion of 2000 *l.* (to which the Appellant *John* is Intituled as her Administrator) and the Legacies, to his Brothers and Sisters.

The Appellant Exhibited his Bill in *Chancery* against the Respondents to have the 2000 *l.* Portion rais'd and paid to him with Interest; and to have the Mortgage, Articles, and Statute deliver'd up.

† The Cause being Heard before the now Lord Keeper. It was Ordered, and Decreed, That the 2000 *l.* should be rais'd and paid to the Appellant *John* with Interest, from his Marriage; and that the *Blachfords* should be paid the 1500 *l.* with Interest, out of the 2000 *l.* and the Mortgage, Articles, and Statute, delivered up and vacated.

Whereas, the Appellant *John*, is Intituled to the 2000 *l.* by his Wives Father's Marriage Settlement abovementioned. And not by any Security given him by the said Guardians; who had no Power to make him a Security of the said Deed of Settlement; that Deed being made to other Trustees, long before, to whom a Term of 500 years was limited for Raising the said 2000 *l.*

And the Guardians with whom the Appellant *John* Articled, had no other Security to give him for the Repayment of the Money, he [conditionally] had undertaken to pay, but their Assignment of their Term of 60 Years (as the Respondent *Taylor* and *Grace* his Wife admit in their Answer to his Appeal) which was devised as aforesaid, for the Payment of the 1500 *l.* Legacies, and which was on other Lands, than those contain'd in the Marriage Settlement.

Wherefore the Appellant humbly hopes that part of the said Order or Decree, which appoints the 1500 *l.* and Interest to be paid out of the 2000 *l.* and Interest may be Reversed.

The Respondents, the *Blachfords*, were never privy, nor consulted in any of the Transactions between the Appellant, and his late Wives Guardians and Friends; but what Agreements were made, were purely for the Benefit and Advantage of the Appellant and his late Wife, as her Trustees confess, in their Answers to the Appellants Bill in *Chancery*.

The Appellant never Receiv'd more from his late Wives Estate than the Fee Farm Rents, of 153 *l. per Annum*, the Trustees taking the Profits of the rest of her Estate, by vertue of their Term of 60 Years; so that the Appellant was above Twelve Hundred Pounds out of Pocket by the Marriage.

Ja. Montague.

THE
CASE

OF

John Laurence, Esq;

APPELLANT.

To be Heard on *Saturday* the
16th of *December*.

1704

Sir Thomas Laurence, Bar^t.
and
John Laurence, Esq;

Appellants.

Robert Blachford, Daniel Blachford,
Elizabeth Blachford, Jane Blach-
ford, George Blachford and John
Blachford,

Respondents.

The Respondents C A S E.

Eustace Man, by Elizabeth his first Wife, had Issue, { Eustace,
and
Elizabeth, who married Robert Blachford, and by him had Issue the Respondents.

Elizabeth, the Wife of Eustace Man, died, and he married Anne Mulens, Widow, who had a Daughter named Elizabeth Mulens.

Eustace the Father died, Anne his Wife survived him.

Eustace the Son being seized in Fee of the Mannor and Farm of Osborne, in the Isle of Wight, in consideration of a Marriage to be had between him and the said Elizabeth Mulens, did

Eustace of the first Part.

The Release made between Anne Man Widow, and Elizabeth Mulens her Daughter of the second Part.

John Leigh, Esq; and William Tayler of the third Part.

Convey and Settle the Mannor and Farm of Osborne to John Leigh and William Tayler and their Heirs, to the Use of Eustace for 99 Years, if he lived so long; after his Death to Elizabeth Mulens his intended Wife for her Joynture; then to the 1st, 2d, and other Sons of that Marriage in Tail, and in default of Issue Male, then to Leigh and Tayler for 500 Years, In Trust to raise 2000 l. for Daughters; if but one, to be paid at the Day of her Marriage or Age of 21 Years: And after the expiration of that Term, then to the use of his right Heirs.

The Marriage did take effect, and Eustace and Elizabeth had Issue only one Daughter, named Elizabeth.

Eustace after his Marriage, by purchase and otherwise, did become seized of the Mannors and Farms of Merston, Harringford, Westanden, and Longlands, and other Lands in the Isle of Wight, and of Fee-farm Rents in the County of Southampton, in all 500 l. per Annum and upwards.

Elizabeth the Wife of Eustace died. Then he by his Will, dated

11 Octob. 1695. Did devise to the Respondents (the Children of his Sister Blachford) 250 l. apiece to be paid to them within Six Months after the Marriage of Elizabeth his Daughter, or after she attained the Age of 21 Years, which should first happen.

He did devise to his Mother-in-law, Anne Man, the Farm called Merston, for her Life, and did devise to her and William Tayler and their Heirs, all his Fee-farm Rents, In Trust for his Daughter Elizabeth and her Heirs. And did devise to his Mother-in-law, Anne Man, William Tayler, and Grace his Wife, all his Mannors, Messuages, Lands, Tenements, Rents and Hereditaments whatsoever, (except the Estate for Life in Merston and the Fee-farm Rents) for the Term of 60 Years In Trust for Payment of his Debts. And after the expiration of that Term of 60 Years, then

He devises all his Mannors, Messuages, Lands, Rents and Hereditaments (except before excepted) to his Daughter Elizabeth, and the Heirs of her Body for ever; and in default of such Issue, he gives the Mannor of Osborne to his Mother-in-law, Anne Man, for her Life.

And then devises all his Mannors, Lands and Hereditaments (except the Estate for Life in Osborne) to the said Anne Man, William Taylor and Grace his Wife and their Heirs, In Trust, that they or the Survivor of them, should settle the same upon the Eldest Son of his Brother-in-Law Robert Blachford, and his Heirs for ever. Subject to the payment of seven Hundred Pounds a piece to his Brothers and Sisters.

19 Novem. 1695. Eustace Man died, leaving Elizabeth his Daughter, an Infant, of the Age of fourteen Years, and Anne Man, William Tayler and Grace his Wife took upon them the Trusts.

Elizabeth, the Daughter of Eustace, lived with Anne Man, her Grandmother, till she attained the Age of eighteen Years.

And then the Appellant, John Laurence, hearing Elizabeth was a very considerable Fortune, did make addresses to her, by way of Marriage, and the said Elizabeth and her Friends insisting, the said Appellant should give Security to pay the Legacies left to the Respondents.

The said Appellants, by Indenture, dated

16 Decemb. 1699. Did convey to Anne Man, William Tayler and Grace his Wife, a Farm, called Bishop's-Enden, in the County of Kent, for the Term of 500 Years; under a Proviso, that if the Marriage took Effect, Then if the Appellants, their Heirs, &c. did pay the 1500 l. Legacies to the Respondents, the Term to cease.

13 Jan. 1699. The Appellants, by Articles of Agreement, covenant, to pay the 1500 l. Legacies to the Respondents, within Six Months after the Marriage.

15 Jan. 1699. The Appellant, John Laurence, for Performance of the said Articles, enter'd into a Statute-Merchant 10000 l. Penalty; and then notwithstanding there was not any Settlement or Joynture made on the said Elizabeth, out of the Appellants Estate.

18 Jan. 1699. The Marriage between the Appellant, John Laurence and Elizabeth was solemnized.

And after Six Months were expired, the Respondent, Robert Blachford, in his own, and the other Respondents behalf, did often desire the Appellant, John Laurence, to pay the 1500 l. Legacies; who did from time to time promise to pay the said Legacies, and said, He was selling an Estate to raise Money to do so.

And these Respondents apprehending the said 1500 l. was well secured, did not press the said Appellant for Payment of the said Legacies.

20 Jan. 1700. Anne Man made her Will, and the Appellants Wife Executrix, and Residuary Legatee, and soon after Anne Man died.

July 1701. Elizabeth, the Wife of the Appellant, died intestate, and without Issue, before she had attain'd the Age of one and twenty Years.

And then the Respondent, Robert Blachford, as Heir at Law to his said Uncle Eustace Man, and by Vertue of his Will, became intituled to all his real Estate.

After the Decease of the Appellant's Wife, the Appellant, John Laurence, did administer to her: and had Administration with the Will annexed to Anne Man's Estate.

And the Respondents making Application to the Appellant, John Laurence, for their respective Legacies;

In Michaelmas-Term, 1701. The Appellants did prefer their Bill in Chancery, setting forth Eustace Man's Settlement and Will, and the aforesaid Mortgage Articles and Statute, and do alledge, that upon the Treaty of Marriage, it was agreed between the Appellants and the Trustees of the Appellants, John Laurence, his late Wife, That no Advantage should be taken of any Securities given for the Legacies of 1500 l. unless the said Appellant might be certain of enjoying the Estate of his then intended Wife for his Life; which Agreement is alledged, to be then indorsed on the said Mortgage-Deed, in these Words, viz. No Advantage shall be taken of this Security, till the said John Laurence be well assured of an Estate for Life in the Premises, or secured the Repayment of the 1500 l. on Failure thereof: The Appellants, by their Bill, did insist, That the 2000 l. secured by Eustace Man's Settlement for his Daughter, ought to be paid to the Appellant, John Laurence; and prayed a Decree for the vacating the said Mortgage Articles and Statute, and for Payment of the said 2000 l.

21 Feb. 1703. The Respondents put in their Answer, and the Cause was heard by the Right Honourable the Lord-Keeper of the Great Seal, Who declared, the 2000 l. ought to be paid to the Appellant, John Laurence, with Interest, from the time of his Inter-marriage; and that the Respondents ought to be paid their respective Legacies, amounting to 1500 l. with Interest for the same from the End of Six Months next after the Appellant, John Laurence, his Marriage, out of the said 2000 l. and Interest, and did Order and Decree the same accordingly.

And altho' 'tis not pretended by the Appellants, that the said Elizabeth had any Settlement out of their Estate, and 'tis apparent that Eustace Man by his Will did make a much better Provision for his Daughter than she had by the Marriage-Settlement; and did not apprehend, that the Mannor of Osborne was chargeable with the 2000 l. having devised the said Mannor of Osborne (in default of Issue of his Daughter) to his Mother-in-law, Anne Man. Yet these Respondents acquiesced with the said Decree: And do humbly hope, that the Appellant, John Laurence, having had all the personal Estate of the said Anne Man and of his late Wife, and being by the Decree to be paid the 2000 l. with Interest, and thereby effectually secured the Repayment of the 1500 l. That your Lordships will think it just and reasonable, that the said John Laurence should out of the 2000 l. pay the said 1500 l. Legacies.

And these Respondents do humbly pray the Decree may be affirmed, and the Appeal dismissed with Costs.

Offered 20 Dec. 1704

W^m. Brydges.

The C A S E of
Robert Blachford, Esq;
and others
R E S P O N D E N T S,

Upon the A P P E A L of
John Laurence, Esq;
and others
A P P E L L A N T S.

To be heard the Day
of *December, 1704.*

Dame Katharine Strode, Trustee for the Three Surviving Daughters of William Wyndham, Esq; who was Eldest Son of John Wyndham, Esq; Serjeant at Law. } Plaintiff.

Thomas Andrews, Lessee of Francis Wyndham, Esq; Younger Brother of the said William Wyndham, } Defendant.

The Plaintiff's CASE:

Upon a writ of Error brought by the Plaintiff to Reverse a Judgment in Ejectment given against her upon a Special Verdict in the Court of Queen's-Bench.

June 9, 10. 1685. JOHN WYNDHAM, Esq; Serjeant at Law, upon the Marriage of William his Eldest Son with Rebecca Strode, by Indentures of Lease and Release, did in consideration of such Marriage, and 3000 l. Portion, convey the Mannor of Blackford, &c. in the County of Somerset, To the Use of William for Life; Then to Rebecca for Life, for her Jointure; Then to the first and other Sons of that Marriage in Tail Male. And for want of such Issue, and in case the said William Wyndham should Die, or be Dead without Issue-Male of his Body on the Body of the said Rebecca born or in Ventre sa mere at the time of his Death and should leave one or more Daughter or Daughters, by the said Rebecca, Then to the Use of Trustees for the Term of 500 Years, Then to the said William Wyndham in Tail Male, Then to the said Serjeant Wyndham in Tail Male, Then to Humphry second Son of the Serjeant in Tail Male, Then to the said Francis Wyndham (the Defendant's Lessor) third Son of the Serjeant in Tail Male, Remainder to the right Heirs of William. And the said Term of 500 Years is thereby declar'd to be in Trust to raise 4000 l. for the Portions of the Daughters of that Marriage, which should be Living at the Decease of the said William, to be paid them in equal proportions at their respective Marriages, or Ages of 21 Years: And upon further Trust, to pay the said Daughters Interest at 5 l. per Cent. for their Mayntenance from the Death of the Survivor of their said Father and Mother, until such Portions paid.

The said William Wyndham and Rebecca, had Issue two Sons and four Daughters, who all survived their Father: One of the Sons died without Issue in the Life of the Mother, and the other survived her, but is since dead without Issue; and one of the said Daughters is also dead.

That the said Dame Katharine Strode being Administratrix of the surviving Trustee of the said 500 Years term, did upon failure of the Issue-Male of William, enter on the Premises, in order to raise the said Portions for the three surviving Daughters; at which time the said Serjeant Wyndham was Dead, and Humphry his 2d. Son was also then Dead without Issue; so that Francis the third Son of the Serjeant, claimed the whole Estate by virtue of the said Settlement; and he being unwilling to pay the said Portions, brought an Ejectment against Dame Katherine in the Court of Queen's-Bench, where the said Special Verdict was found: Upon Arguing whereof, Judgment was given against Dame Katherine: That Court being of Opinion, that in Point of Law the said Term of 500 Years did never arise or take place.

But it is humbly Conceiv'd, That the said Term for 500 Years, did arise and take place upon the Death of William's said younger Son without Issue, and that the same is still subsisting, for the following Reasons.

I. It was manifestly the Intention of all Parties to the Settlement, that the Four Thousand Pounds should be raised for the Daughters of that Marriage, if there should be a Failure of Issue-Male.

II. The Term is expressly limited to take place, if William Wyndham should Die or be Dead without Issue Male by Rebecca, and therefore when his Sons are both dead without Issue, the Contingency is happened, and he is dead without Issue-Male, and consequently the Term did arise. The rather, for that there is no express time limited in the Settlement when the Failure of Issue-Male should happen; so it may be at any time.

Objection I. That the Contingency of the Failure of Issue-Male is confined to the time of the Death of William (by the Words at the time of his Death) and that both his Sons survived him, and so the Contingency never happened.

Answer. That these Words [at the time of his Death] relate only to the Expression immediately foregoing, viz. [in Ventre sa mere] and so the entire Clause is not restrained by these Words, [at the time of his Death] but they must be referred only to the next preceeding Expression, viz. [in Ventre sa mere] for without the subjoining or adding them to these Words, [at the time of his Death] the Expression [in ventre sa mere] had been unintelligible, or at least not compleat Sense.

Objection II. That the Maintenance is to commence from the Death of the Survivor of William and Rebecca, the Father and Mother; and from thence they would have it infer'd, that the Failure of Issue Male must happen in the Life-time of one of them.

Answer. That in Penning of Declarations of Trusts of such Terms for Years, the Accidents that may happen to Families cannot be all foreseen, and so the Trusts are suited to the Cases that are most obvious; But from that, nothing can be justly Collected to defeat the Term it self: Besides, that doth not prove what Francis contends for, That the Failure of Issue-Male must be at the Death of the Father; but the contrary, in regard it limits the Maintenance to take place from the Death of the Survivor of the Father and Mother: And the Mother did survive, and consequently the Failure of Issue-Male was not intended to be restrained to the time of the Father's Death.

But supposing this to be a doubtful Case, yet since there is room for a Construction in Favour of the Daughters of that Marriage; It is humbly hoped that this Honourable House will rather incline to give them a Provision out of their Father's Estate, who are in the nature of Purchasers for a valuable Consideration upon the Merit of their Mother's Marriage and Portion, Than suffer their Father's Younger Brother to carry away the whole Estate of the Family, being above 2000 l. per Ann. clear: Of which above 1000 l. per Ann. is by virtue of the said voluntary Limitation in Remainder: Especially since they have no other Provision out of their Father's Estate. And they ought the rather to be favour'd: In regard they are the Heirs at Law, both to their Father and Grand-Father, who made the said Settlement.

Judgment reversed.
5 Feb. 1706.

Tho. Powis,

Rob. Raymond.

THE
CASE of

Dame Katharine Strode, Trustee for the Three surviving Daughters and Heirs of William Wyndham, Esq;

Upon a Writ of Error.

To be Argued before the House of Lords, on *Tuesday* the 4 of February, 170⁶/₇.

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(1)
Dame *Anne Russell*, Widow, Appell^t.

Lytton Lytton, Esq; Resp^t.

The R^t. Hon^{ble} *Rebecca* Coun-^t }
tess Dowager of *Falkland*, } Appell^t.

The said *Lytton Lytton*, Resp^t.

The Respondent's C A S E.

These Appeals are against a Decree made by the Right Honourable the Lord High Chancellor of *Great Britain*, assisted by the Right Honourable the Master of the Rolls, the Lord Chief Justice *Trevor*, and Mr. Justice *Tracy*.

The Estate in controversy consists of Nine Mannors and Lands of the annual Value of 3000 *l.* and more, which for many Generations and Descents have been enjoy'd in the Name of the *Lyttons*, which is a very ancient Family. Of which Estate

Sir *Rowland Lytton* being seized in Fee (*viz.*) of the Mannors of *Knebworth*, *Letchworth*, *Hanchets*, *Maudlebury*, *Broxburne* alias *Canwicks*, *Ansty*, *Half-Hide* and *Homelyes*, and of divers other Messuages, Lands, Tenements and Hereditaments in the County of *Hertford*.

And also the Mannors of *Stotfold Newnham* and *Stotfold Brayes*, and divers other Messuages, Lands, Tenements and Hereditaments in the County of *Bedford*.

The 1st Settlement
by Sir Rowland Lytton,
20 Feb. 1665.

Upon the Marriage of Sir *William Lytton* his eldest Son with *Mary Harrison*, settled the said Mannors of *Maudlebury* and *Broxburne* alias *Canwicks*, and divers other Lands and Hereditaments of the Value of 700 *l. per annum*, upon Sir *William* for Life, Remainder to the said *Mary* for Life for her Jointure, Remainder to the Heirs Males of the Body of Sir *William* by the said *Mary*, Remainder to Sir *Rowland* and the Heirs Males of his Body, Remainder in Fee to the Right Heirs of Sir *Rowland*.

And as to the Wood and Woodlands, to the Use of Sir *Rowland* for Life, Remainder to Sir *William* for Life, and to Trustees during his Life, and to his first and other Sons in Tail Male by *Mary* his Wife, Remainder to Trustees, to raise Portions for Daughters, Remainder to his first and other Sons in Tail Male by any other Wife, Remainder to Sir *Rowland* in Tail Male, Remainder to Sir *Rowland* and his Heirs.

And by the same Deed the said Mannors of *Half-hyde* and *Homelyes* and of *Stotfold Newnham* and *Stotfold Brayes*, were settled upon Sir *William* and the Heirs Male of his Body by the said *Mary* his Wife, Remainder to Sir *Rowland* and the Heirs Males of his Body, Remainder in Fee to the Right Heirs of Sir *Rowland*. And by the same Deed the said Mannors of *Knebworth*, *Letchworth* and *Hanchets*, were settled upon Sir *Rowland* for Life, Remainder to Sir *William* for Life, with Remainder to the first and other Sons of Sir *William* in Tail Male as before, Remainder in Fee to the Right Heirs of Sir *Rowland Lytton*.

2d Settlement by
Sir Rowland of Part
of the said Estate,
2 Octob. 1672.

After the said Settlement of the 20th of *February*, 1665. Sir *Rowland*, by Fine in *Hilary*-Term, 1672, and by Deed dated the 2d of *October*, 1672, reciting, that by the Settlement dated the 20th of *February*, 1665. several of the Mannors and Lands therein mentioned, were limited to him in Tail Male, *Did* for thee Barring the said Intail in him and to enable him to have the Free Disposition thereof, and to settle the same in his own name and blood, settle the said Mannors and Lands upon Sir *Francis Russell* (the Appellant the Lady *Russell's* late Husband) and Sir *Nicholas Strode* (the Respondent's Grandfather) and their Heirs in Trust for such Person and such Estate as Sir *Rowland Lytton* should by his Deed or Will appoint, and in Default of such Appointment in Trust for the Right Heirs of Sir *Rowland* for ever.

3d Settlement by
Sir Rowland of Part
of the aforelaid Estate,
20 Aug. 1673.

Sir *Rowland Lytton*, by his Deed dated the 20th of *August*, 1673. settled the Mannor of *Ansty* upon himself for Life, Remainder to *Rowland* his second Son for 99 Years, if he should so long live, Remainder in Tail Male successively to the first and the other Sons of *Rowland* the Son, Remainder in Fee to the Right Heirs of Sir *Rowland*.

And by the same Deed the Mannors of *Stotfold Newnham* and *Stotfold Brayes*, he settled upon the said Sir *Francis Russell* and Sir *Nicholas Strode* and their Heirs in Trust for *Rowland* the Son for 99 Years, if he lived so long, Remainder to his first and other Sons in Tail Male, with Remainder to the Use of the Right Heirs of Sir *Rowland*.

4th Settlement by
Sir William Lytton
upon his 2d Marriage,
18 June 1687.

Sir *William Lytton*, after the Death of Sir *Rowland*, upon his Marriage with Dame *Philippa* his Wife settles his Lands in *Letchworth* of the Value of 70 *l. per Annum* upon her for her Jointure with Remainder to his own Right Heirs.

Sir William Lytton's
Will, 25 Mar' 1700.

Sir *William Lytton* made his Will, and his Sister the Appellant, Dame *Anne Russell* and the Respondent Executors thereof and residuary Legatees of his Personal Estate.

And by his said Will devised divers Messuages and Lands in *Letchworth* aforelaid (Part of the ancient

Affirmed 19 Feb. 1708.

ancient Estate comprized in the first Settlement of Sir Rowland) to the said Dame *Philippa* his Wife for her Life, and divers other Lands there to her during her Widowhood.

And then follows this Clause :

Item, I give and devise to the said *Lytton Strode*, his Heirs and Assigns for ever, all other my Messuages, Lands, Tenements and Hereditaments (*out of Settlement*) to have, and to hold the said Messuages, Lands, Tenements, Hereditaments and Premises, with their, and every of their Appurtenances unto the said *Lytton Strode*, his Heirs and Assigns for ever, *provided always*, and upon this Condition, That the said *Lytton Strode* and his Heirs, or such other Person or Persons, who shall possess and enjoy the said Messuages, Lands and Premises, or any part thereof; (in case the said Dame *Philippa* my Wife, shall be with Child at the time of my Decease, and shall be delivered thereof after my Decease, and the same shall happen to be a Daughter, or if at the time of my Decease I shall have a Daughter living) shall well and truly pay or cause to be paid unto such Daughter, either born in my Life-time or after my Decease the Sum of 4000 *l.* of lawful English Money, at, or in my Mansion House at *Knebworth* aforesaid, at such time as such Daughter shall attain to her Age of Eighteen Years, or Day of Marriage which shall first happen, and in default of Payment thereof, or any part thereof my Will is, and I do hereby give full Power unto such Daughter and her Assigns into the said Messuages, Lands and Premises, with the Appurtenances to enter and the same to hold, possess and enjoy, until out of the Rents, Issue and Profits thereof she shall be fully satisfied and paid the Sum of 4000 *l.* with Interest and Damages, for the forbearance thereof, from the time the same is above appointed to be paid, together with all reasonable Costs and Damages occasion'd by such default of Payment.

And also provided the said *Lytton Strode*, does change his Sir-name from *Strode* to *Lytton*, and does for the future go and be called by the Name of *Lytton*, and not by the Name of *Strode*; And in case the said *Lytton Strode*, does not change his Sir-name from *Strode* to *Lytton*, as above-said, the said Devise and Bequest to him made of the said Messuages, Lands, Tenements and Hereditaments (*out of Settlement*) shall wholly cease and be void, and then, and from henceforth I Give and Devise the said Messuages, Lands, Tenements and Hereditaments, with their Appurtenances (*out of Settlement*) unto the said Dame *Ann Russel* her Heirs and Assigns for ever, subject and lyable to the Payment of the said 4000 *l.* to such Daughter, in Manner and Form as is provided in the proviso abovementioned and expressed.

And in his said Will no notice whatsoever is taken of the Lady *Falkland*, who was his half Sister.

after Term, 1706,
the Respondent's
Bill filed.

The Respondent being then and still an Infant by his *Prochein Amy*, exhibited his Bill in Chancery against the Appellants to have a Decree for the quiet enjoyment of all the said Sir *William Lytton*'s real Estate, devised to him by the said Will.

the Lady *Falk-*
and's Cross Bill.

And the Lady *Falkland* exhibited her cross Bill to have a Partition of the real Estate, as one of the Daughters and Co-heirs of Sir *Rowland Lytton*, and that one third Part thereof might be set out for her.

th of May, 1708,
the Causes heard.

The said Causes came to a Hearing before the said Lord Chancellor assisted as aforesaid; And having been attended with Copies of the said Testators, Will, and Abstracts of the Limitations in the several Deeds of Settlement in the Pleadings mentioned, and having considered thereof upon the 16th Day of June last, were unanimously of Opinion that all the Mannors, Messuages, Lands, Tenements and Hereditaments, whereof the said Sir *William Lytton* was at the time of making his Will seized in Fee, or whereof he then had a disposing Power, and the Reversion and Inheritance thereof did well pass by the said Will to the Respondent, and were decreed for to go and be enjoyed by him.

And the Appellant the Lady *Falkland*'s Bill was to stand dismissed.

Which Decree is humbly conceived to be Just.

1st,

For that the Inheritance of the whole Estate, (Sir *William* having no Issue Male) was at the time of making the Will in his Power to dispose by Deed or Will, and therefore *out of Settlement*.

2dly,

For that it appears plainly to be the Intent of the said Will, that all his Estate that was in his Power to devise or dispose of should pass by the said Will, to the Intent to preserve them in his Name and Blood. The Respondent being his Eldest Sister's Grandson, and being obliged by the Will to take upon him the Name of *Lytton*, and it cannot be thought that when he was laying a Design to preserve his Estate in his Name, he could design all the Antient Estate of the Family to go to his Heir at Law Female and not of his Name, when he had the same Power to dispose of that as of any other Part of his Estate.

3dly,

For that he hath actually given Part of this very Estate by his Will to his Wife, to whom he had before made a Joynture of other Part of it, and so cannot be said as pretended to be Superstitious in that particular, not to dispose of any Part of the Estate he had from his Ancestors.

thly,

For that he hath made a Provision by his Will of 4000 *l.* for his Daughters, if he should have any; which no Body could think he would ever have done, if he had intended that all the antient Estate of his Family should go to that Daughter; and while he was endeavouring to preserve his Name, to give the Person who was to take his Name so small a Share of his ancient Estate, and to leave that too, with a Charge of 4000 *l.* upon it.

That Sir *William Lytton* had a great Regard to his Name, appears by his giving the Respondent Name of *Lytton*, as his God-father in Baptism, and by obliging him to change his Sir-name *Strode* to *Lytton*, under the Penalty of losing the Estate if he did not.

Wherefore, 'tis humbly desired, the said Decree may be affirm'd.

Edw. Northey,
Jo Pratt.

Sir William Lytton had Issue

Judith Edwards his first Wife.
Nota, The Settlement on her Marriage is dated 28 Sept. 1638.

Sir Rowland Lytton had Issue four Children by his first Wife, and one by his second Wife, and dyed in 1674.

His second Wife Rebecca Lucy.
Nota, The Settlement on her Marriage is dated 12 June, 1661.

Now Viscountess Dowager Falkland.

1.

His first Wife Mary Harrison, by whom he had no Issue.
Nota, The Settlement on her Marriage was dated 20 February 1665.

Sir William Lytton, the Teltator, he dyed without Issue the 14th of January 1704.

His 2d Wife was Philippa Keynge, who is now living, but had no Issue by him.
Nota. The Settlement on her Marriage is dated 18 June 1687.

2.

Judith married to Sir Nicholas Strode; both dead, and she dyed in 1663, leaving her Son and Heir.

Anne married Sir Francis Russell, Bart. and they have Issue three Daughters, all married.

3.

4.

Rowland, who was never married, and dyed 1699. *Nota*, The Settlement on him is dated 20 August 1673. And other Estates were devised to him by his Father's Will, dated 5 Septemb. 1674.

Sir George Strode, whose eldest Son is

Lytton Strode, to whom Sir William Lytton has Devised all his Estate (out of Settlement) on Condition he change his Sir-name to Lytton.

The Lady *Russell*,
AND
^{vis}
The Countess *Falkland*,
APPELLANTS.

Lytton Lytton, Esq;
RESPONDENT.

The Respondent's Case.

To be Heard on *Friday* the
18th of *February*

1708.

Ann Horton, Widow, Joshua Horton, Senior,
and Joshua Horton, Junior, Son and Heir } Appell'
of Joseph Horton, Deceas'd,

Anthony Kirton, } Respond'
AND
John Kirton, }

The Appellants CASE.

21. Octob. 1695.

JOSEPH HORTON, in Consideration of 1200 l. Fine, and 10 l. Yearly Rent, &c. obtained a Grant from Colonel Roger Whitley, Deceased, of a Tenement, &c. in the Township of Cotton Abbots, alias Cotton Hooke, in the County Palatine of Chester, of the Yearly Value of 80 l. and no more, above Taxes, Lords Rent, &c. To hold to him and his Heirs for the Lives of himself, and of the said Appellants, Ann his Wife and Joshua, Senior, his Brother, which said Ann and Joshua are still Living.

24. Octob. 1695.

The said Joseph Horton not having Money wherewith to Pay the said Fine, Mortgaged the said Premises to Sir John Mainwaring, Baronet, Deceased; for Securing the said 1200 l. in Trust for the said Colonel Whitley.

Colonel Whitley requiring Payment of some Part of the said 1200 l. the said Joseph Horton Borrowed at Interest several considerable Sums of Money, and drew in his Brother the said Appellant Joshua, Senior, and several other Persons, to be Bound with him as his Sureties for the same, and applied the Moneys towards Discharge of the said 1200 l.

8. Aprilis, Anno 12.
Will. tertii Regis.

At Chester, in the County of the City of Chester, before Justices of Oyer and Terminer and Goal Delivery, the said Joseph Horton was Indicted and Convicted for having in his Custody, without any Lawful Authority or sufficient Excuse for that Purpose, One Press for Coinage, Two Dyes for Coinage, &c. against the Form of the Statute, made in the Eighth and Ninth Years of the said King William, Intituled, *An ACT for the Preventing the Counterfeiting the Current Coin of this Kingdom*, whereby such Offence is made High Treason, and Judgment was given against him accordingly.

" That in the said Statute of the Eighth and Ninth of King William, creating that High Treason there is a Proviso, *That the said Act, or any Thing therein contained, or any Attainder of any Person for any Offence or Offences made Treason or Felony by that Act, shall not in any wise extend or be adjudged, interpreted, or expounded to make any Corruption of Blood to the Heir of any such Offender.*

In September, 1700.

He, the said Joseph Horton, having made his Escape out of Prison died in the City of London, leaving the said Appellants Ann his Widow and Joshua, Junior, his Eldest Son and Heir (now an Infant of about Thirteen Years of Age) and Three Younger Children, of which one is since Dead.

The said Joseph Horton was, at the Time of his Death, Indebted to several Persons in considerable Sums of Money.

Bill in the Exchequer.

Sir Salathiel, now Mr. Baron Lovell, hath in the Names of the said Respondents, Anthony and John Kirton, in Trust for himself, obtained a Grant from his said late Majesty King William, of all the said Joseph Horton's Estate by him forfeited, and hath in their Names brought a Bill in the Court of Exchequer at Westminster, for an Account of the Profits of the said Estate since the said Attainder, and likewise of his Personal Estate, and to be let into the Possession of the said Estate, and to have the Original Grant delivered over to him, &c. To which Bill the said Appellants, Ann Horton, Joshua Horton, Senior, and Joshua, Junior, by the said Joshua, Senior, his Guardian, put in their Answers, and insisted on the said Clause or Proviso, in the said Act of Parliament, which preventeth the Corruption of the Blood of the Heir of any one Offending against the said Act, and there being divers Witnesses examined, the Cause came to a Hearing before the Barons of the said Court of Exchequer. And,

16. Maii 1709.
DECREE.

By the Opinions of the Lord Chief Baron Ward, and Mr. Baron Bury, (Mr. Baron Price dissenting) a Decree was made for the now Respondents, the Kirtons, to have an Account of the Profits of the said real Estate, from the Time the Offence was committed, for which the Attainder was, and Decreed them Possession against the Appellants.

APPEAL.

From which said Judgment and Decree, the then Defendants have humbly Appealed to the Right Honourable the House of Peers, apprehending themselves to be aggrieved thereby, and humbly Pray that the said Decree may be Reversed as to the Accounting for the Profits of the real Estate, from the Decease of the said Joseph Horton.

I.

For that the said Appellants are Advised, and humbly Insist, That the said Clause or Proviso, in the said Act of Parliament, which makes this Offence Treason, intended to make the Punishment as Personal to the Offender as the Guilt, and never design'd that the Innocent Heir, who was no way *Particeps Criminis*, should be a Sufferer; but does fully and in express Words Save and Preserve the Right of the Heir to every thing which can descend or come to him from his Ancestor, as fully as if the Ancestor had committed no Offence at all — For the Saving against Corruption of Blood preserves the Descent to the Heir, as a Saving the Land to the Heir would have prevented Corruption of Blood: And that although the Act makes a new Offence Treason, yet it Restrains and Limits its Effects, and confines the Forfeiture to the Offender's Life.

II.

As the Heirs, so the Widow and Rest of her Children, whose only Support the Remains of this Estate are, will be starved and utterly undone, and the several Persons who are Bound with and for the Proper Debts of the said Joseph Horton, who have been forced to Pay, and actually have Paid several very considerable Sums of Money upon the Account of their being Bound as Sureties for the said Joseph Horton, for Moneys which he actually and entirely had to himself, and which they ought in all Justice and Equity to be Reimbursed out of what Estate he has left; and several honest Tradesmen in the City of Chester, to whom the said Joseph Horton was Indebted for Goods Sold and Delivered, and for Provisions for Himself and Family, and likewise honest Workmen for Work and Materials for the Building of a Large Brick House, now standing upon the said Premises, must fail of their Debts, and many of them be ruined.

The said Appellants do therefore most humbly Appeal to this Honourable House of PEERS, and Pray that the said Decree may be Reversed.

EDWARD NORTHEY.

*Edw. Northey
of the Exchequer
8. 7. 1709.*

Decree made 31. 10. 1709.

HORTON, & al' Appellants.
KIRTON, & al' Respondents.

THE
Appellants Case,
IN THE
HOUSE OF LORDS.

To be Heard on *Saturday* the 21st of
JANUARY, Instant.

For the opinions of all the Judges this
Day

1709.

HENRY CONOWAY, Esq; an Infant, by
Sir John Conoway, Bart. his Father and next
Friend, Bridget Litton, Widow, and Charlotte
Mostyn, Spinster, both Infants, by Richard Mo-
styn, Esq; their Father and next Friend,

PHILADELPHIA SHRIMPTON, Widow,
and Philip Shrimpton, Esq; an Infant, by the said
Philadelphia Shrimpton, his Mother and Guardian,

Appellants.

Respondents.

The RESPONDENT'S CASE.

16th 11, } Dec.
12th 13, } 1664

July, 1665.

Trinity Term,
1667.
Michaelmas
Term, 1669.

Jan. 11. 1669.

Jan. 17. 1669.

March 8. 1669.

July 1670.
July 2. 1672.

June 24, 25.
1673.

April 26. 1689.
1682.

Jan. 26. 1703.

Bill.

Answer.

By any

The Master of the
Rolls Decree,
Dec. 13. 1709.
Lord Chancellor's
Decree, April
29. 1710.

Objection.

Answer.

SIR Kenelm Digby, by Lease and Release, conveyed the Manor of Stokedry in the County of Rutland, part of the Premises in question, to Philip late Earl of Leicester, for securing 4000*l.* Money lent by him with Interest at 6*l.* per Cent; and the rest of the Premises he conveyed, by Lease and Release, to the Lord Lumley's Trustees, for securing 4000*l.* also lent by him with the like Interest.

SIR Kenelm Digby died, having by good Conveyances and his last Will vested the Equity of Redemption of the Mortgaged Premises in or in Trust for Charles Cornwallis, Esq; to the intent that he should by Sale or Receipt of the Rents thereof, pay himself so much as was due to him on an Account stated between him and Sir Kenelm, 16 Novemb. 1664. and what he should for the future lay out for Sir Kenelm, and the Charges of the Trust, and that Cornwallis should, when he should be reimbursed, apply the Residue for Payment of Sir Kenelm's Debts by Mortgage or otherwise, for which Cornwallis stood bound, and of the Legacies given by Sir Kenelm's Will, and the Surplus thereof (if any) was to be to the use of Hollis and Holman, Trustees, to preserve the Contingent remainders, under a Provision, that they should not convert the Profits thereof to their own use, nor permit John Digby, (Sir Kenelm's Son) to receive the same; but should permit Mr. Cornwallis to manage such Surplus, and receive the Profits thereof for the use of the said John Digby for Life, to whom Mr. Cornwallis and his Heirs were to be accountable, remainder to the Heirs of John in Tail Male, and for default of such Issue, to the second, third, fourth, and other Sons of Sir Kenelm in Tail, Remainder to Sir Kenelm's right Heirs; and by virtue of such Conveyances and Will, Mr. Cornwallis entered and enjoyed the Premises in question from Sir Kenelm's Death till July 1670.

John Digby Exhibited his Bill in Chancery against Mr. Cornwallis, and the said Mortgagees offering to pay what was due to them, and praying the Mortgaged Premises might be conveyed to him, and the said Mortgagees answered, that they were ready to receive their Money, and convey to them to whom the Equity of Redemption belonged; and the said Mr. Digby not proceeding further in his Cause, Mr. Cornwallis and his Trustees, Hollis and Holman, exhibited their Bill, and thereby offered to pay what was due to the said Mortgagees, so that they would convey the Premises to Mr. Cornwallis, or as he should direct, whereto the said Mortgagees made the same Answer as to Mr. Digby's Bill.

There being a great Arrear of Interest due, and the Mortgagees perplexed with two Bills in Chancery at the Suit of two several Persons, claiming a right of Redemption, and Mr. Cornwallis being in Possession, the Mortgagees moved the Court that they might be at liberty to accept their Money of Mr. Cornwallis, who offered to pay the same, and to convey the Premises to him, or as he should appoint, subject to the same Equity of Redemption as they then were subject to, which was ordered, unless cause should be shewn to the contrary by Mr. Digby at the then next general Seal.

Upon Mr. Digby's Council coming to shew Cause, it was ordered that Mr. Digby should have time to pay off what was due to the said Mortgagees, till the latter end of the then next Hillary Term, and upon Payment, they were to convey the Premises to the Six Clerks of the Court of Chancery, not towards the Cause to be disposed of as the Court at the hearing should direct, but in case Mr. Digby should fail of paying the Money in that time, then the Court left the Mortgagees to convey the Premises, and take in their Money, as they should be advised.

That Mr. Digby having failed in paying the Money, and the Mortgagees being then about to execute Writs of habere facias possessionem on the Judgments in Ejectments by them obtained, which would have been at least 500*l.* Expence to the Estate, and about Transferring their Mortgages, and taking in their Money of some other Person; thereupon Mr. Cornwallis, who was in Possession, and who by the said Conveyances and Will, was to have the sole Management and Disposal of the Premises, and was only to be accountable for the Surplus, if any happened, to Mr. Digby, (who was totally excluded of any intermeddling Power with the Estate) applied to the Mortgagees, and desired their forbearance, and proposed to pay them off in June following, and forthwith to state the Account of what was due to them, and make the whole balance carry Interest, that they might not be Losers by such their forbearance; whereupon they were prevailed on to stay, taking Possession and Transferring their Mortgages; and on the 8th of March 1669, the said Mr. Cornwallis did enter into Articles with the said Mortgagees respectively, whereby it was agreed, that 4668*l.* 10*s.* 6*d.* due to the Lord Lumley, and 4676*l.* 16*s.* 6*d.* due to the Earl of Leicester for Principal, Interest and Costs, on the accounts stated to the 15th of January, 1669, should from the said 15th of January, 1669, be made Principal, and carry Interest at 6*l.* per Cent, as the Original Mortgage Money did, which Money Mr. Cornwallis agreed to pay the 16th day of June, 1670.

The Money not being paid, Mr. Cornwallis let the Mortgagees into Possession.

The said Mr. Digby's Cause was heard, and his Council, in order to induce the Court to decree a speedy Sale of the Estate, alledged, that by the said Agreement the Interest was made Principal, and therefore prayed that the Estate might be sold forthwith: Whereupon it was ordered that the same should be speedily sold, and in the first place the Money due to the Mortgagees respectively should be paid with Interest and Costs, they accounting for what Profits they had received, and then that what was due to Cornwallis, and the other Debts and the Legacies of Sir Kenelm should be paid, and the Overplus, if any, should be paid, by Mr. Cornwallis to John Digby or his Assigns; but neither Mr. Cornwallis, nor Mr. John Digby, though they lived many Years after, proceeded to a Sale of the Premises.

The Lord Lumley wanting his Money, the Earl of Leicester paid him down 4000*l.* and by Lease and Release his Estate and Interest was convey'd to the Earl of Leicester; and by a separate Deed it was agreed that 584*l.* 9*s.* 1*d.* which was then due to the Lord Lumley, over and above the said 4000*l.* should with Interest stand charged upon the Premises after the 4000*l.* and Interest answered to the Earl of Leicester.

The Earl of Leicester paid the Lord Lumley the said 584*l.* 9*s.* 1*d.* with Interest, then amounting to 942*l.* 19*s.* 1*d.*

That John Digby died, leaving the Appellants Mother, his two Daughters and Coheirs, and one Ralph Larion, (who married their Mother) and on their behalf, revive Mr. John Digby's Suit, who finding by the Earl of Leicester's Answer, that there was as much due to him as the Estate was worth, proceeded no further.

The Earl of Leicester died, having by Will and otherwise vested the Mortgaged Premises in the Respondent Philadelphia and her Heirs, which were, upon her Marriage with Mr. Shrimpton, conveyed to the late Earls of Sunderland and Rumney, in trust for Philadelphia during her Coverture, for her own separate Use, wherewith Mr. Shrimpton was to have no intermeddling Power, and after her Death in trust for Mr. Shrimpton for Life, and after to the Issue of their two Bodies; Mr. Shrimpton is since Dead leaving Issue the Respondent Philip.

Mr. Shrimpton was at a Tavern drawn in to sign a Paper, which the Appellants call an Agreement, whereby he was to give 2750*l.* for the Equity of Redemption of the Premises, and to release all Arrears and Demands of Tithes, out of or from an Estate of the Appellants called Hollyokes, which Tithes are part of the Mortgaged Premises, in all worth 500*l.* So that he was to give 3250*l.* for the Equity of Redemption, which was not really worth a Shilling, the Mortgage Money being then at least 14000*l.* and the Estate not worth 12000*l.* nor had he power to make such Agreement, especially to release part of the Mortgaged Premises, having no Interest in the Estate, but for Life if he should have Survived his Wife, which he did not do.

The Appellants brought their Bill in Chancery for a specific Performance of such pretended Agreement, and if that failed, then to be let in, to redeem upon Payment of Principal, Interest and Cost, pretending that they themselves were Infants; and that their respective Mothers were also Infants when John Digby their Father died, and that they Married in their Infancy, and Died Feme Coverts.

The Respondents by Answer, insisted that the Appellants, after such a length of Time and Possession, as from July 1670, which is now above forty Years, ought not to be let in to redeem: It being impracticable to account for the Profits for so many Years past, three or four Agents who successively received them being Dead: And as for the Agreement, insisted it ought not to be performed by the Decree of a Court of Equity, because it was in itself impracticable, *Ex parte* and not mutual, the Appellants being no ways bound thereby, and that it was void by the Statute of Frauds and Perjuries not being signed by the Appellants, nor by them Lawfully Authorized, and that Mr. Shrimpton or the Respondents, his Representatives, could not have compell'd the Appellants to have performed the same, who then were also Infants.

Upon the hearing of the Cause, the Master of the Rolls dismissed the Appellants Bill, as to and Decreed that the Appellants should redeem upon Payment of the principal Sums of 4000*l.* and that the Respondents should account for the Profits ever since, they and those under

From which Decree the Respondents appealed to the Right Honourable the late Lord Chancellor, such a length of Possession, or if it should, it ought to be on the foot of the Account for turning Interest into Principal; should stand and upon the hearing of the said Agreement of the 26th of January 1703, and Decreed that the Appellants 4668*l.* 10*s.* 6*d.* and 4676*l.* 16*s.* 6*d.* making together 9345*l.* 7*s.* with Interest

The Respondents humbly hope your Lordships will see no Reason to carry a the rather because it was made by Mr. Shrimpton who had no power so to do, and for an Equity of Redemption of an Estate, not sufficient to pay the Mortgage Money.

It seems very hard that any Redemption should be granted after forty years Possession, for the event of an Account of that length be sufficient Losers, the Receivers being Dead, and it humbly hope that Accounts stated now near forty one years since, in which no Error is Affected, the Appellants shall redeem on the Foot thereof, and pay Interest for the Ballance according to Mr. Cornwallis's Agreements.

That Mr. Cornwallis, when he stated the said Accounts and sign'd the Agreements for turning Interest into Principal, was but in the nature of a second Mortgagee, or at most but a Trustee for Mr. Digby, and that no Act of his ought to bind or prejudice the Appellants.

That Mr. Cornwallis, by Sir Kenelm's Conveyances and Will, had the Equity of Redemption wholly vested in himself, or Trustees subject to his controul upon a special trust and confidence, and might have sold or done what he would with the Estate, and was only to be accountable to Mr. Digby for the Surplus; and certainly any prudent and reasonable act done by Mr. Cornwallis, in its Nature Just and Equitable, and at that time necessary and beneficial to the Estate would have bound Mr. Digby, and consequently ought to bind the Appellants also. For the stating those Accounts, and turning Interest into Principal, was not a prejudice but an advantage to the Estate, for the Agreement prevented the great expence of the Sheriffs Poundage and other Fees for taking Possession, and the charge of the Mortgagees assigning to other Persons, which otherwise they would have done, as they had liberty by the said Order of the 17th of January 1669, and it cannot be disputed but that if the Mortgagees had assigned to another Person, the whole Sums paid them by the Assignees, would have carried Interest from the time of Payment.

The Sum due for Interest and Costs to the 15th of January 1669, was liquidated and stated to be 1345*l.* 7*s.* and it seems very unreasonable that the same should not carry Interest according to the Agreement, when if the Money had been paid as it ought it would have produced Interest in another Place.

Wherefore, and for divers other Reasons, the Respondents humbly hope your Lordships will affirm such Parts of the said Master of the Rolls, and the late Lord Chancellor's Decrees, as by the Appeal are complained of, and humbly pray that the said Appeal may be dismissed this Honourable House with Costs.

performance of the said Agreement of the 26th of January 1703, originally lent, with Interest for those Sums and Costs, have been in Possession.

And that a Redemption ought not to be granted after 1669, and that the Accounts of Mr. Cornwallis Dismissal of the Master of the Rolls, as to the accounts stated, and on Payment of the said 1669, and Costs.

and which is void in Law, into an Execution; and in its Nature so unreasonable, being to give 3250*l.* nor has Mr. Shrimpton left Assets to perform it.

There are few if any Presidents, and the Respondents will in Papers and Vouchers lost or mislaid; therefore the Respondents or so much as pretended to, shall not be laid open, but that the Respondents's Agreements.

Tho. Powys.
Spencer Cowper.

Henry Conoway, Esq; } Appellants,
and others,

Philadelphia Shrimpton, }
the Widow of Major- }
General *Shrimpton,* } Respondents
Deceased, and *Philip* }
Shrimpton, her Son. }

The Respondents CASE.

*To be heard at the House of Lords on
Friday the 19 day of January, 1710.*

THE
APPELLANTS
CASE.

CONWAY
Versus
SHRIMPTON.

To be heard at the Bar of
the House of Lords.

RALPH DOCKSEY,
Gent. Son and Heir
of Robert Docksey,
Gent. Deceased. } APPELL.

ELIZABETH DOCKSEY, *Widow,*
and *Executrix of the*
said Robert Docksey } RESP.

The Respondent's CASE.

Articles.
22 Aug. 4 Willi.
& Mar. 1692.

Robert's former
Will, dated
9 June 1703.

In Apr. 1704.

THE said Robert Docksey, a Confectioner in London, having but a small Fortune; in 1662, Inter-married with the Respondent, with whom he had about 14 or 1500*l.* Portion, and afterwards improving his Estate, he purchased the Manor of Snelston, and other Lands in the Counties of Derby and Stafford, of about 700 *l.* per Ann. And the said Robert having Issue, the Appellant, his Eldest Son, and Five younger Children; upon a Treaty of Marriage between the Appellant and Elizabeth his intended Wife, and in Consideration of the Marriage and Portion, by Articles agreed to settle the Capital Messuage and Lands in Snelston of 200 *l.* per Ann. Value on the Appellant and his intended Wife, and their Issue, which was afterwards accordingly Settled by Lease and Release of 19 and 20 April, 1698, and the Marriage took Effect.

The said Robert Docksey made a Will, whereby he gave the Respondent all his Plate, Jewels, and Household-Goods for her Life, and after to dispose of the same to such of his Children and Grand-Children as she should think fit; and gave her 20 *l.* to be paid her within a Month after his Decease; and Devised all his Real and Personal Estate to his Son Robert Docksey, and Son in Law Francis Evans (whom he made Executors) upon Trust to pay his Debts, and several Legacies to his Daughters and Grand-Children; and Devised to the Respondent several Closes in Snelston for her Life, for her Jointure; and also a Rent-charge of 90 *l.* per Ann. for her Life, for her better Support and Maintenance out of all his Estate, after his Debts and Legacies paid; and Devis'd the Surplus of his Real Estate, after his Debts and Legacies paid, to his Son Robert, and his Heirs.

The Testator being ill of the Sicknes (whereof he afterwards died) the Appellant went to one Mr. Pole, a Clergyman, and particular Acquaintance of the Testator's, to desire him to persuade his Father the Testator to make his Will; whereupon Mr. Pole having heard that the Testator had by a former Will Devised the Surplus of his Estate to his Son Robert, and his Heirs, he endeavour'd to persuade the Testator to alter it, and to give his Estate to the Appellant, and charge it with what Money he saw good to his Son Robert, and gave him several Reasons for it; whereupon the Testator seem'd inclinable to alter his Will, but was utterly averse to leave his Estate to the Appellant; so that Mr. Pole went away, and on the Monday following Mr. Pole came again and found the Testator much worse than before, and again repeated his Arguments for the Testator's making his Will, whereto he seem'd inclinable, and then told Mr. Pole his Intention of giving his whole Estate to the Respondent, his Wife, to pay his Debts and Legacies, and to dispose of the Remainder as she saw good (as he had done by Two former Wills, One dated March 6. 1692, and the other 22 November, 1697.) but said, tho' he left it in his Wife's Power, yet he would have her to leave the Estate to his Son Robert, and not to give the Appellant any Part of it: And thereupon

On 24 April
1704.

upon one Mr. Hayne was sent for, and came thither that Evening, and took Instructions for drawing the Will, and then went into another Room and drew the same, and when it was read, over to the Testator, viz.

The said Testator executed the said Will, being his last Will, whereby he *Devised to the Appellant, and his Heirs, all the Land call'd Snelston Park, with all the Wood thereon, with the Appurtenances, (except one Corner thereof in the Will particularly describ'd) the Appellant and his Heirs paying the Respondent 1000 l. within Four Years next after the Testator's Decease, and the Respondent thereout to give 100 l. to the Appellant's Eldest Daughter, if then Living, but if Dead, among the rest of his Children as she should think fit: All the rest of his Real Estate, not before Devised, he gave to the Respondent and her Heirs, upon the Trusts hereafter-mention'd. And whereas the Testator had then some Time since agreed with his Son (the Appellant) for the exchange of some Lands between them for Conveniency of both their Estates, viz. That the Testator should Convey the Capital Messuage, wherein he then liv'd, and Lands next and most convenient to it of 100 l. per Ann. Value and upwards, in exchange for Lands of the same Yearly Value, which the Testator had formerly Settled on the Appellant on his Marriage; therefore for the Performance of that Agreement, he Devised the said Capital Messuage and Lands of 100 l. per Ann. Value, and upwards, to be set out as to the Quantity and Conveniency by Two Persons in the Will named, unto the Respondent and her Heirs, in Trust, to Convey the same to the like Uses, as the Lands which the Appellant should Convey to the Respondent and her Heirs, in lieu thereof are Settled. But the Respondent was to have the Capital Messuage for her Life, if she desired the same. Then as for the Residue of his Real Estate (except one Close Devised to a Charity) and the Lands which the Respondent was to have in exchange from the Appellant, the Testator Devised the same to the Respondent and her Heirs, in Trust, to sell the same, or so much thereof as should be needful for Payment of his Debts and Legacies, and gave other Legacies to other Persons, and gave all the Personal Estate to the Respondent, towards the Payments of his Debts and Legacies and made the Respondent Executrix*

20 May 1704.

The Testator died, and shortly after Mr. Hayne who drew the Will, wrote to Robert, the Son, Two several Letters, wherein he acquaints Robert with the Contents of his Father's Will, viz.

The first Letter dated 19 Aug. 1704.
The 2d Letter dated 11 Sep. 6.

Wherein he writes, That the Respondent had all the Estate the Testator died seized or possessed of at her own dispose, paying his Debts and Legacies. He writes, (among other Particulars of the Will) That the Testator had given the Respondent all his Lands and Estate both Real and Personal, paying his Debts and Legacies, and left the Respondent Executrix.

15 & 16, 17 & 18 Aug. 1704.

By several Indentures of Lease and Release, mutual Exchanges were made between the Appellant and Respondent, pursuant to the Testator's Will, and the Respondent is in those Conveyances mention'd to be the sole Executrix, and Devisee of the Testator, by which Exchange the Appellant gain'd 1000 l. And

9 & 10 Sept. 1704.

By Lease and Release the Appellant made a Purchase of several Lands and Premises in Snelston from the Respondent, as under the Will, of about 187 l. per Ann. Value.

In Hill. Term 1705.

The Appellant Exhibited his Bill in Chancery against the Respondent for an Account of the Testator's Real and Personal Estate, and for a Conveyance thereof, pretending, that by the Testator's last Will, the Respondent was only a Trustee for the Appellant after Debts and Legacies Paid.

And

And afterwards the *Respondent* brought her Cross-Bill for Preservation of the Testimony of the Witnesses touching the Will, and for the *Respondent's* quiet Enjoyment of the Estate.

10 Feb. 1707.

Both Causes were heard together before the late Lord Chancellor, when upon reading the several Wills and Proofs in the Causes, his Lordship declar'd, That there was not a Resulting or ImPLY'd Trust in the Wife and Executrix (the *Respondent*) for the Benefit of the Heir. But on the contrary it appear'd by the written Words of the Will, as also by the Proofs, that such an Implication was strongly contradicted; and that it was the Intention of the Testator, that this should be a beneficial Devise to the Wife and Executrix, and therefore saw no Cause to give the Appellant any Relief, and Order'd, That the Appellant's Bill should stand Dismiss'd without Costs. But on the Respondent's Bill decreed, That she should Hold and Enjoy the Lands Devise'd, subject to the Trusts in the Testator's Will against the Appellant, and all claiming under him.

Which Decree and Dismission it is humbly conceived was well grounded upon the Proofs and Circumstances of the Case, and according to the Rules of Equity.

Reasons why the Testator did not intend to give the Appellant the Surplus of his Estate.

- I. From the Words of the Testator's former Wills, by all which it appears, he had otherwise disposed of the Surplus of his Estate.
- II. From the Devise in the Will in Question of *Snelston Park* to the Appellant and his Heirs, he paying the Respondent 1000 l. within Four Years after his Death, and his Intentions in this and his former Wills; for had the Testator intended the Appellant the Surplus, there would have been no Occasion for making this Devise to him; for the same would have been part of such Surplus, and must have come to him; and then the Respondent would have had nothing to have liv'd upon for Four Years after the Testator's Death.
- III. From the Exchange directed by the Will in Question to be made between the Appellant and Respondent; for had the Surplus been intended for the Appellant, the exchange of the Land, devise'd to the Respondent for that Purpose, would have been a vain and unnecessary Thing; for then the same Lands would have also come to the Appellant without any such Exchange: But the Value, Place and Conveniency mention'd in the Will shews (as conceiv'd) the Testator's Intention to be quite the contrary.
- IV. From Mr. Pole's Discourse with the Testator about altering his Will.
- V. From Mr. Haynes's Two Letters (who drew the Will) immediately after the Testator's Death, how he then took the Will to be.
- VI. From the Appellant's acquiescence under the Will, in making the Exchange, pursuant to it.

Wherefore and for divers other Reasons, It is most humbly hoped, that the said Dismission and Decree shall be affirmed, and that the Appeal shall be dismissed with Costs.

RO. RAYMOND.

J. PRATT.

RALPH DOCKSEY, *Gent.* }
Son and Heir of Robert } APPELL
Docksey, Gent. Deceased. }

ELIZABETH DOCKSEY, }
Widow, and Executrix of } RESP
the said Robert Docksey. }

The Respondent's CASE.

*To be heard at the Bar of the House of
Lords, on Thursday the Eighth Day
of February, 1710.*

Davie & al' Appellants.

Hooper and Ux' Respondents.

The Respondents Case.

To be heard at the *Bar* of the
House of Lords, on *Thursday* the
14th Day of February, 1711.

Margaret Davie, Frances Davie,
and Trephena Davie, (Daugh-
ters of Sir William Davie, Bart.
Deceased) Infants, by Nicho-
las Pollexfen, Esq; their next
Friends.

Appellants.

Nicholas Hooper the Younger,
Esq; and Mary his Wife, who
was only Daughter of the
said Sir William Davie, by his
First Wife.

Respondents.

The Respondents C A S E.

THAT the said Sir William Davie (having but 5000*l.* for his Portion, in the Life-time of Sir John Davie, Bart. his Eldest Brother) did Marry with Mary Stedman, who was then under the Age of 21 Years, and was Entitled to an Estate of Inheritance in Somersetshire, of the value of 250*l.* per Annum, the greatest part of which was then in Jointure to Mary Stedman Widow, her Mother-in-Law.

April 1. 1687. THAT Precedent to such Marriage, and in Consideration thereof, the said Sir William Davie, then William Davie of the Middle-Temple, Esq; together with Sir John Davie his Brother, and Margaret their Mother, did by Articles of Agreement, Covenant with the said Mary Stedman and Henry Long, Esq; that He, his Executors, and Administrators, would within One Year after the Marriage, at the Request of the Trustees, settle and assure the Sum of 5000*l.* or good Securities for Money, in manner following, (*viz.*) 2000*l.* part of the 5000*l.* to and for the sole Benefit of the said Mary Stedman, the intended Wife, in Case the said Marriage should take Effect, and he the said William Davie, should dye in the Life-time of the said Mary, without any Issue by her, but if the said William Davie should dye in the Life-time of the said Mary, leaving Issue by her Living, or then in *ventre sa mere* that should afterwards be Born Alive, then the said William Davie was to settle but 1500*l.* part of the 5000*l.* on the said Mary, which 1500*l.* as to the Interest thereof, was to be for the Benefit of the said Mary the intended Wife, during her Life, and after her Decease, the Principal was to be for the benefit of the Issue of that Marriage.

AND by the same Articles, it was further Covenanted that the said William Davie, would within the time aforesaid, upon Request of the Trustees, settle and assure 2500*l.* other part of the said 5000*l.* to and for the Use of the Issue, of that Marriage, in such proportion as the said William Davie should by any Writing Appoint.

PROVIDED always that if no such Request should be made within a Year after the said intended Marriage, that then the said Sir John Davie and his Mother, were to be discharged of their said Covenants, but such proviso was not to extend to the discharge of the said William Davie, or of his Executors or Administrators.

THAT the said Marriage was afterwards had, and the Respondent Mary, is the only Issue of that Marriage.

THAT the Respondent Mary's Mother, when she came of Age, was prevailed on by Fine, and common Recovery, and Deeds, leading the Uses thereof, to settle her said Somersetshire Estate (by which Settlement the Respondent Mary claims the same) to the Use of the said William Davie for Life, the Remainder to Mary his Wife, for her Life, Remainder to all the Sons of that Marriage, in-tayle Male, Remainder to the Daughters of such Marriage, in such proportion, as said William Davie should limit, Remainder to the Heirs Males of the Body of said William Davie, Remainder to the Heirs of his Body on his then Wife, Remainder to the right Heirs of Sir William Davie, shortly after which, this Respondent Mary's Mother died.

THAT the said Sir John Davie, also died, on whose Death the said Sir William Davie, had an Estate come to him in Devonshire, of 2000*l.* per Annum (which is now gone over to the Heir Male of the Family.)

THAT the said Sir William Davie, did Marry with Abigail the Daughter of John Pollexfen, Esq; with whom he had 5000*l.* Portion, and had Issue by her Three Daughters, the now Appellants, and having Purchased an Estate in Devonshire, to the value of 1400*l.* per Annum, by Deeds of Lease and Release (Ingrossed and Executed the Day before his Death, but antedated six Months back) settled his new Purchased Estate in Devonshire, and charged the same with the Payment of 5000*l.* a piece to each of the Appellants, and thereby intayled the same, Subject to such Charge on himself, and the Heirs Males of his Body, with Remainder over to the Appellants, and the Respondent Mary, so that he might at any time have barr'd such Remainder, and did by his Will, Dated in February, 1607, Devise some Legacies to this Respondent Mary, of small value, and left then what he thereby Devised to the Appellants, and died the 19th Day of March, 1607.

THAT the Appellants did by their next Friend, Exhibit their Bill against the Respondent Mary, then an Infant, and likewise against the Trustees and Executors of Sir William Davie and Others, to have a discovery of the said Marriage Articles, and of the Settlement of the said Somersetshire Estate, and amongst other things to defeat the Respondent Mary of all Benefit of the said Articles, and the Respondent Mary, did likewise by her next Friend (being then an Infant) Exhibit her Bill against the Appellants and the Trustees and Executors of Sir William Davie, to recover what was due to her by the said Articles, and have an account of the Real and Personal Estate of her Deceased Father, and the Writings relating thereto, which Bills being answered, the Appellants or some one on their behalf, took out and Executed four Commissions for Examination of Witnesses, and the said Causes, came afterwards to be heard before the Right Honourable the Lord Keeper of the Great Seal of Great Britain, on the 17th Day of November, 1710. On which Hearing,

HIS Lordship declared that the 2500*l.* was well vested by the Articles in the Respondent Mary, and Decreed the same to be paid to the Respondents, with Interest after the rate of 5*l.* per Cent. from the Death of the said Sir William Davie, but dismissed the Respondents Bill as to the 1500*l.*

Obj. 1. THAT the Appellants by their Appeal alledge the same Decree is Erroneous, in that part which decrees the 2500*l.* with Interest to the Respondents.

Ans. SIR William had no Interest in the Somersetshire Estate, at the time of the Settlement, for that Estate moved only from the Respondent Mary's Mother, and was never expressed or designed to be a Satisfaction, for what was limited by the Articles to the Issue of that Marriage, and the Respondents Claim, the same Estate, not by the Gift of Sir William Davie, but by the said Settlement and Gift of the Respondent Mary's Mother, and if such Settlement was a Satisfaction, it must have been so at the time of making thereof, and it could not then be deemed a Satisfaction, because this Respondent Mary took nothing thereby but by way of Remainder after an Estate Tayle, which the Tenant in Tayle might by a Common Recovery have barr'd and destroy'd.

AND besides such Settlement was never declared or agreed, either by Sir William Davie, or his first Wife, to be a Satisfaction of the Money agreed to be paid by the Articles.

Obj. 2. THE Appellants pretend, that the Devonshire Estate of the Value of 1400*l.* per Annum, settled by Sir William, by the Deeds of October 1706. and what was given to the Respondent Mary, by his said Will, must be deemed as a Satisfaction for what is due by the said Marriage Articles.

Ans. THAT the Legacies given to the Respondent Mary are of small Value, and less than what is given to each of the Appellants, by the same Will; and besides the Devonshire Estate is charged with 15000*l.* for the Portions of the Appellants, and with 1500*l.* more by the said Will and Decree for the Benefit of the Appellants, and part thereof to the Value of 220*l.* per Annum is in Jointure to the Appellants Mother, and the Respondent Mary had nothing by such Settlement at the making thereof, but a Remainder, together with the Appellants, after an Estate Tayle, which Sir William Davie might likewise have barred when he had thought fit: and it is not pretended Sir William Davie ever declared he intended it for a Satisfaction of what he was bound to do by the said Articles.

Besides the Appellants have each of them more out of Sir William Davie's Estate than this Respondent Mary hath, tho she was his Eldest Daughter, these Respondents not esteeming the Somersetshire Estate to be part of Sir William Davie's Estate; nor do they claim the same by his Gift, but by the Gift of the Respondent Mary's own Mother.

NOTE, THE Respondents are by the Decree debarred of the 1500*l.* because this Respondent Mary's Mother did not survive Sir William Davie; tho it is not reasonable to think, it was the Intention of the Parties, that the Limitation of that Sum to the Issue of that Marriage should depend on any such Contingency, and if the Respondent Mary should have had that 1500*l.* as well as the 2500*l.* yet she would have less out of Sir William Davie's Estate than either of her younger Sisters have.

THESE Respondents therefore hope, that the Decree in the Points Appealed from shall be affirmed, and the Respondents have their Costs.

Affidavit 14 Feb 1711

Tho. Powis,
Jos. Jekyll.

Sir Lyon Pilkington, Bar.
Appellant.

Mary Cuthbertson, Widow,
Respondent.

The Appellant's CASE.



In Consideration of a Marriage then intended betwixt the *March, 1698.*
Appellant Sir *Lyon Pilkington*, and Dame *Lenox*, his late
Wife, who was only Daughter and Heir of *Cuthbert Har-*
rison, Esq; and then Widow of one Mr. *Smith*.

Indentures of Lease and Release Tripartite, were executed *March 18, 1698.*
by the said Dame *Lenox*, then *Lenox Smith* of the First Part,
the Appellant of the Second Part, and Two Trustees therein
named of the Third Part, whereby the said Dame *Lenox* did
grant to the said Trustees her Manor of *Acastor, Selby*, and
several other Lands in the County of *York*, to several Uses in
the said Deed particularly mentioned with Remainder in Fee
to the Survivor.

In the Indenture of Release, there is a Covenant on the Part of the Appellant, ~~That~~ the
said *Lenox* should convert to her own Use, all or any of the Rents and Profits of the said Premises
after the Inter-marriage, during her Life, at her Pleasure: And reciting, ~~That~~ the said
Lenox was seized of certain Copyhold-Lands therein named, and ALSO POSSESSED
of a considerable Personal Estate, The Appellant did thereby Covenant to permit and suffer
the said *Lenox* from and after the Marriage to take and dispose the Rents and Profits of the said
Copyhold-Estate, and of all or any Part of the Personal Estate to such Uses as to her should seem
meet, without giving any Account thereof to the Appellant, and that the Appellant should not
during her Life, intermeddle therewith, without her Consent; shortly after the Execution of
this Deed, the Marriage was solemnized.

After the Marriage, other Indentures of Lease and Release were executed between the *July 20, 21, 1699.*
same Parties, for the further settling the Real Estate, in which there is a Covenant from
the Appellant to the like Effect as in the former Deed of the Eighteenth of *March,*
1698.

The Appellant's Lady being at *York*, distant from the Appellant, was prevailed upon to
execute a Deed-Poll, whereby she did give and grant to the Respondent *Cuthbertson*, all her *July, 1706.*
Goods, Chattels, and Personal Estate whatsoever; and the Respondent did execute another
Deed, declaring the said Deed-Poll was made to her in Trust for such Persons, as the said Dame
Lenox should appoint; and by a Third Deed of the same Date, the said Dame *Lenox* did
order the Respondent *Cuthbertson* to distribute and deliver her Personal Estate, consisting of
divers particulars therein mentioned, to several Persons in the said Deed; and gave to the
Charity-School Girls in *St. Mary-Gate* in *York* 30 l. and to the Poor of *St. Martin's* Parish 5 l.
but if her Personal Estate should fall short to make up the said Charities, proportionable
Abatements should be made, and if any Over-plus, it should be applied to augment the Cha-
rity proportionably, and shortly after died.

CUTHBERT

1711

CUTHBERT HARRISON, Esquire, the Appellant's Wife's Father dying Intestate, after her Marriage with the Appellant, Administration of his Estate was granted to the said Dame *Lenox*, and after her Death the Appellant took Administration to his said Wife, and also took Administration *de bonis non, &c.* of the said Mr. *Harrison*.

The Appellant's Original Bill, and the Respondent's Cross Cause were for an Account of the Personal Estate of the said Dame *Lenox*, and

July 11, 1707. The Causes were first heard at the Rolls, but upon the Respondent's Appeal

Feb. 9, 1707. The Causes were Re-heard before the late Lord Chancellor, whereupon several Directions were given *AS TO WHAT SHOULD BE DEEMED THE SEPARATE ESTATE OF THE* said Dame *Lenox*, and of what she had Power to dispose by Vertue of her Marriage Agreement; and amongst other Things it is thereby declared, That what was her own at the Time of her Intermarriage with the Appellant, ought to be taken as Part of her separate Personal Estate: But the Court declared, That the Personal Estate of Mr. Cuthbert Harrison, the Appellant's Wife's Father, or of any other Person, accrued to her after her Marriage with the Appellant, ought not to be taken as Part of her separate Personal Estate, or within her Disposal, by Vertue of her Marriage Agreement, but did belong to the Appellant: And, That in case she had disposed of her said Father's Personal Estate so accruing to her after her Marriage, The same ought to be made good to the Appellant, out of the Surplus of her own separate Personal Estate, before such Surplus be applied to the Increase of the Charities devised by her Deed of Gift, allowing what the said Dame *Lenox* paid for her said Father's Funeral Charges, or otherwise upon his Account; and did Order and Decree the same accordingly, and with these Directions it was referred to a Master to take the Account, with liberty to certify any Matter of difficulty, specially, for further Direction.

May 26, 1709. The Master made his Report, by which it appeared that the separate Personal Estate of the Appellant's Wife amounted to and he thereby certified that it appeared by Proofs taken before him, That Cuthbert Harrison left in a Port-Mantle Trunk 1100*l.* in Silver, and 370 odd Guineas, which after his Death, the Appellant's Wife took into her Custody, and only gave the Appellant 500*l.* thereof, Part of which was laid out in building an House, that belonged to the said Dame *Lenox*; and with other Part, the Appellant paid the Funeral Charges of Mr *Harrison*, and that the Appellant's Wife kept the Remainder of the Money and Gold, and with Part of it paid several Debts she owed before her Marriage, amounting to 460*l.* 16*s.* 6*d.*

Novemb. 9, 1709. The Matter of the Special Report was heard afterwards and re-heard by the late Lord Chancellor, and upon the Re-hearing thereof

May 3, 1709. Upon the Respondents Petition, the Third of May last, the Court was pleased to order that the Appellant should be examined upon Interrogatories for discovery of what of the said Money in the Port-Mantle over and above the said 500*l.* was concealed from the Appellant, and did not come to the Appellant's Use.

Accordingly the Appellant was examined, and denied upon his Oath that any Part above the said 500*l.* came to his Use, but that the same was concealed from the Appellant till the Discovery thereof by Mrs. *Bawtry's* Depositions, (taken before the Master) which was long after the hearing the Cause.

Jan. 19, 1710. The Cause was heard before the Lord Keeper for a Final Decree, and as to the said Sum in the Port-Mantle, amounting to 1498*l.* 16*s.* 6*d.* the Appellant did not controvert the 500*l.* nor the said 460*l.* 16*s.* 6*d.* applied by his Wife in discharge of her Debts contracted before Marriage, and which ought to have been paid out of her separate Estate, but did only insist upon the Satisfaction for 538*l.* being the Overplus remaining, after the before-mentioned Sums deducted.

But the Respondent's Council insisting upon the Words of the Decree of the Ninth of February, 1707. viz. That the Appellant's Satisfaction ought to be made good OUT OF THE SURPLUS OF THE SAID DAME LENOX SEPARATE PERSONAL ESTATE before such Surplus should be applied to the Increase of the Charities, that by those Words the Appointments made by the said Dame *Lenox*, by the aforesaid Deed of the 11th of July 1706, were to take Place of the Appellant's Demand for the said concealed Money, and the Decree being so drawn up, the Court directed that the Appellant should have Satisfaction pursuant to the said Decree, the Consequence whereof is, that the Appellant who is
in

in the Nature of a Creditor to the said separate Estate, for the said concealed Money is postponed to the Voluntary Dispositions made by the Appellant's Wife, by the said Deed of the 11th of July, 1706.

The Appellant would have attempted to rectify the said Decree by a Re-hearing, but the Respondent who had all the Personal Estate of the Appellant's Wife in her Hands, and who knew there would be a deficiency to answer the Appellant's Demands, procured the said Decree to be signed and inrolled.

The Appellant at the Time of pronouncing the said Decree of the 9th of February, 1707, could not see the Consequence of the Direction, because

First the Appellant did not then know of any Concealment: And

Secondly, If there had been Sufficient of the Separate Personal Estate of the Appellant's Wife, to have answered the Appellant's Demand of the concealed Money, the Dispositions made by the said Dame *Lenox's* Deed (tho' Voluntary) might have been satisfied as well as the Appellant's Demand, but in the Event of the Account, it now appears that there will be no Surplus remaining for the Appellant's Satisfaction; so that it is become necessary to determine whether the Appellant is intitled to have a Prior Satisfaction as a Creditor for the said concealed Money, with respect to the Voluntary Donees (who are in the Nature of Legatees) and claim only by the said Deed of Appointment.

It may be objected that this is an Attempt to avoid the Charities.

The Appellant did never contend the Payment of the Charities, but by his Answer hath submitted that they should be paid, and is content, and by his Answer hath offered that the 30*l.* and 5*l.* should have a Preference, tho' it seems very probable that the Charities were only put in for a better Colour to the Deed.

The Charities will be equally avoided, if the Voluntary Dispositions take Place, for as that stands upon the Account which both Sides acquiesce in, there is like to be no Surplus to go in Augmentation of the Charities.

Wherefore, It is humbly hoped that the said Decree of the 7th of February, 1709, and the Order of the 19th of January last pursuant thereto, may be rectify'd, so as the Appellant may be admitted to have a Satisfaction for the said Money fraudulently concealed from the Appellant.

Spencer Cowper.

Fr. Wilkinson.



The Appellant's
C A S E.

Sir Lyon Pilkington, Bar. Appellant.

Mary Cuthbertson, Widow, Respondent.

To be heard at the Bar of the House of Lords,
on *Friday* the Eleventh of *May*, 1711.

Sir *Lyon Pilkington*, Barronet,
APPELLANT.

Mary Cutbberghen, Widow,
RESPONDENT. 576 m 18

The Respondent's C A S E.

LENOX SMITH, Widow and Relict of *George Smith* Esq; and Daughter and Heir of *Cuthbert Harrison* Esq; being seised in Fee of the Mannor or Lordship of *Acaster Selby*, and other Lands in the County of the City of *York*, of the Value of 1000*l.* per Annum, and possess'd of a personal Estate of the value of 2000*l.* about the Month of *March* 1698, intermarried with Sir *Lyon Pilkington*, but before such Marriage,

By Indenture Tripartite, she did grant to Trustees and their Heirs, the said Mannor and Lands to 18 *March* 1698, the Use of her self for Life, with Remainder to the Issue of the intended Marriage, Remainder to the Survivor of them the said Sir *Lyon Pilkington*, and *Lenox* in Fee.

It is thereby covenanted and agreed, that the said *Lenox* shou'd convert and take to her own Use, and every, or any of the Rents, Issues, and Profits of the Premises, from and after the Marriage, during her Life, at her own Will and Pleasure; and might take and dispose the Rents and Profits of a Copyhold Estate at *Hemingbrough*, in the County of *York*, and all her personal Estate to such Uses and Intents as to her might seem fitting; and Sir *Lyon*, during her Life, was not to intermeddle therewith; and in Case she survived Sir *Lyon*, she was not to claim any Dower out of his Estate.

Cuthbert Harrison Esq; Father of the said Dame *Lenox* dyed.

By Indenture a Fine is covenanted to be levied of the said Mannor and Premises, to the same Uses as are in the last mentioned Indenture. April 1699.
20 July 1699.

The said Fine was levied accordingly.

The said Sir *Lyon Pilkington*, having thereby secured to himself his said Wife's Inheritance, of such great Value as aforesaid, in Case he shou'd happen to survive her, soon after took occasion to leave her, and live sepearte from her for near Eight Years, and till the time of her Death, and seldom or never came near her, but when he wanted to get Money from her, or to prevail with her to pay his Debts.

That notwithstanding this unkind Usage, the said Dame *Lenox* voluntarily allowed Sir *Lyon* 300*l.* per Annum out of her own Rents, and maintained herself and Servants out of her own sepearte Estate; and the said Sir *Lyon* was never put to one farthing Charge upon her Account; but on the contrary, was Maintained and Supported by her, after such ill Treatment and Neglect as aforesaid.

The said Dame *Lenox*, in order to dispose of her sepearte personal Estate, which she had saved in about eight Years time, and which amounted only to about 500*l.* in Money, besides her dressing Plate, Wearing Apparel, Necklace, Ear-Pendants, some Household and other Goods, not exceeding in the whole 500*l.* more, pursuant to the Power to her reserved by the two before-mentioned Indentures of the 18th of *March* 1698, and 20th of *July* 1699, by her Deed of Gift, did give and grant to the Respondent all and singular her Goods, Chattles, and personal Estate. 11 July 1706.

The Respondent by her Deed-Poll, did declare that the said Deed of Gift was only made in Trust for the Benefit of such Person and Persons; and that the said Personal Estate should be distributed in such manner and proportion as the said Dame *Lenox Pilkington* shou'd appoint, by writing under her Hand, attested by two or more credible Witnesses. 11 July 1706.

The said Dame *Lenox Pilkington*, by her Deed of Appointment, attested by three credible Witnesses, reciting the said Deed of Gift and Declaration of Trust, did direct and appoint a Distribution of her personal Estate, to be made to several of her Friends and Acquaintance in such manner as is therein particularly mentioned; and gives to the Charity School Girls in *St. Mary's-Gate York*, thirty Pounds for a Fund for them: To the Poor of *Hemingbrough-Parish* ten Pounds: To the Poor of *St. Martins Parish* in *Conny-Street York* five Pounds, and directs that if her personal Estate falls short to make up the Charities, proportionable Abatements should be made in them; and if there happen any Surplusage the same shall be apply'd to augment the Charities. 11 July 1706.

Dame *Lenox Pilkington* dyed.

Sir *Lyon Pilkington* exhibits his Bill in *Chancery*, against the Respondent for an Account of the Personal Estate in the Possession of the said Dame *Lenox* at the time of her Death, which had since come to the Hands of the Respondent, to which Bill the Respondent put in her Answer, and exhibited a cross Bill against Sir *Lyon*, to have the Trust reposed in her by the said Dame *Lenox* to be Executed: And both the Causes coming to be heard before the late Lord Chancellor, 17 July 1706.
10 Oct. 1706.

The Court (*inter alia*) declared that the Personal Estate of the said Lady *Pilkington*, which was her own at the time of her Intermarriage with Sir *Lyon* with the produce thereof, was and ought to be deem'd and taken as part of her sepearte Personal Estate at her own Disposol. But that the Personal Estate of Mr. *Cuthbert Harrison* her late Father, which accru'd to her after her Marriage with Sir *Lyon*, ought not to be taken as part of her sepearte Personal Estate, or within her Disposol, but did belong to Sir *Lyon*; and that in Case she had disposed of her said Father's Personal Estate, so accruing to her after her Marriage with Sir *Lyon*, that the same ought to be made good to Sir *Lyon* out of the surplus of her own sepearte Personal Estate, before such surplus should be applyed to the encrease of the Charities; and the Court did establish the disposition made by the said Lady *Pilkington* of her own sepearte Personal Estate, as also the said Charities; and it was referred to a Master to take the Account, and Certify any Matter of Doubt or Difficulty specially to the Court, and to Tax the Respondent her Costs. 9 Feb. 1707.
Decree.

That the Master took the said Account, to which Exceptions were taken by both sides, and the same have been argued, determined, and acquiesced in; But the Master certifying specially that he found by the deposition of the Defendant Mrs. *Bantry*, that *Cuthbert Harrison* Esq; about six Months before his Death came from *Acaster* to *Table at York*, and brought with him a large leather Portmantle, wherein was a very considerable Sum of Money, which Portmantle the said Mr. *Harrison* left with the Defendant *Bantry* for several Months, until about a fortnight before his Death, when he ordered the said Portmantle to be taken from her, and carried the same with him to *Acaster*, and about Ten days after Mr. *Harrison* dyed; and about six days after his Death, Dame *Lenox Pilkington* deceased came to the said Mrs. *Bantry*'s House, and brought with her the said Portmantle, and gave Mrs. *Bantry* the Key thereof, and order'd her to tell over the Money her Father *Harrison* had left therein, and upon counting the same, found 1100*l.* in Silver, and 370 odd Guineas in Gold, which the said Dame *Lenox* took into her own Custody, and some short time after gave Sir *Lyon Pilkington* only 500*l.* and kept to her own use the remainder of the said Money and Gold, and with part thereof paid several Debts which she owed before her Marriage with Sir *Lyon* amounting to 400*l.* 16*s.* 6*d.* 26 May 1709.
Masters Report.

Nov. 1709.
May 1710.

12 Aug. 1710.

19 Jan. 1710.

Note.

Note.

That upon arguing the special Matter of the said Report, and by a subsequent Order upon rearguing the same; It was order'd that the said Sir *Lyon Pilkington* should be examined upon Interrogatories for discovery of what of the Money in the Portmantle, over and above the said 500*l.* was concealed from him, and did not come to his Hands or Use; and also what of the Money found in the Portmantle, was paid for the Debts of the said Lady *Pilkington* before Marriage, above the said 460*l.* 16*s.* 6*d.*

Sir *Lyon* upon his Examination said, that he did not know, nor never heard of any Money that was left by *Cuthbert Harrison* Esq; in the Portmantle in Mrs. *Bawry's* Deposition mentioned, untill the same was discovered by the said Deposition, or some small time before.

The special matter of the said Report coming on to be further heard before the Right Honourable the Lord Keeper, It is ordered, that the surplus of the said 1103*l.* and 370 odd Guineas above the said 500*l.* and the said 460*l.* 16*s.* 6*d.* be made good to the said Sir *Lyon*, according to the Decree.

Sir *Lyon* hath appealed from the Decree and last mention'd Order for that, as he avers he is in the Nature of a Creditor of the said Dame *Lenox's* seperate Estate, for the Money in the Portmantle supposed to be concealed from him; and that the same ought to have been decreed to be made good to him as such, and before any voluntary Dispositions of the said Dame *Lenox* should take place.

The Lady *Pilkington's* whole seperate personal Estate at her Death did not exceed 1000*l.* out of which the Respondent paid for the Funeral Charges, and Debts of the said Lady *Pilkington* (which Sir *Lyon* by Law was liable to pay) 292*l.* 14*s.* 11*d.*

That Sir *Lyon* hath been for adversary in his Proceedings, that he hath occasioned the Respondent necessarily to expend for the Charge of these Suites 500*l.* at the least, and She by the Decree is to have her Costs in the first place out of the seperate Estate of the Lady *Pilkington*.

The Respondent is 60*l.* out of Pocket for keeping two Coach-horses, given by the Lady *Pilkington* by her Deed of Appointment to her Cousin *Lowther*, Sir *Lyon* opposing the said Gift, which charge the Court of Chancery would not allow to the Respondent, so that the Respondent will thereby, and by what her Costs when taxed will fall short of what she is out of Pocket upon that Score, be a very great Loser by taking upon her the Burden of this Trust.

The Respondent insists that the late Lord Chancellor's Decree in postponing the Appellants demand to the Gifts, Dispositions and Charities of the Lady *Pilkington* is well founded upon the Defendants Answer in Chancery to the Respondents Bill: Whereby he admits, that the said Mr. *Harrison* left a personal Estate of the value of 1500*l.* or thereabouts, and that he had only 500*l.* thereof, but says he did leave the Management and disposal of the said Mr. *Harrison's* personal Estate to his Wife the Lady *Pilkington* without any Contradiction of his: And the said Decree having also been so long acquiesced in and proceeded upon by Sir *Lyon Pilkington* the Respondent hopes the same shall not be reversed.

If the Decree should be reversed all the Gifts, Dispositions and Charities of the Lady *Pilkington* (who was so great a Fortune to Sir *Lyon*) will be disappointed, and Sir *Lyon* will not benefit above 200*l.* by it, and besides his Ladys old Cloaths must contribute to make up that Sum.

Wherefore the Respondent humbly hopes That this Honourable House will affirm the Decree, and that the Appellants Petition and Appeal shall be dismissed with Costs.

J. Jekyll,
R. Belasyse.

Sir *Lyon Pilkington*, Barr. }
Appellant. } Mary Cuthbertson,
Respondent. }
The Respondents CASE.
To be heard at the Bar of the House of
Lords, on Friday the 11th. of May 1711.

The Right Honourable *Lawrance*,
Lord Viscount *Say and Seale*,
Thomas Roberts and others the
Tenants,

Plaintiffs in the Writ of
Error, and Defendants
in the Original Action.

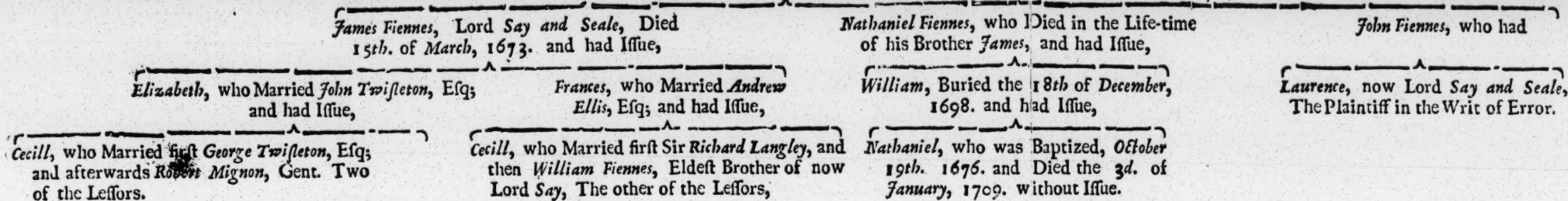
Henry Lloyd nominal Plaintiff upon the Demise of
Cecil Fiennes, Widow, and *Robert Mignon*,
Gent. and *Cecil* his Wife, Cousins and Coheirs
of *Nathaniel*, late Lord Viscount *Say and Seale*,
Deceased. And also upon the Demise of *Wil-*
liam Farrer, Esq; and *Sylvester Petyt*, Gent.
Mortgagees of the said late Lord *Nathaniel*.

Defendant in the
said Writ of Er-
ror, and Plaintiff
in the Original
Cause.

In an Ejectment for the Mannors of *Broughton*, *Newenton* alias *Newton*, *Bloxham Beauchamp*, *Bloxham*, *Fennys* and
Shutford alias *Shitford*, and divers Messuages and Lands in *Broughton*, *Banbury*, *Newenton* alias *Newton Shutford*,
alias *Shitford* and *Bloxham*, in the County of *Oxford*.

The PEDIGREE,

William Fiennes, Lord *Say and Seale*, Died the
14th. of *April*, 1662. and had Issue,



Laurence, now Lord *Say and Seale*,
The Plaintiff in the Writ of Error.

The Defendants C A S E.

THE only Question is, Whether the last Lord *Nathaniel* who was seized of the Premises, to him and the Heirs Male of his Body, Remainders to the now Lord *Say and Seale*, and the Heirs Male of his Body, did well bar such Remainder, which will depend on this Question, viz. Whether there was a good Tenant to the Precipe of the Recovery, suffered by *Nathaniel*, Lord *Say and Seale*, in *Michaelmas* Term, 1701. for if there was, the Remainder to the Plaintiff in Error was barred.

This Cause was tried the 6th. of *November* last, at the *Queens Bench* Bar, and a Verdict was given for the then Plaintiff, now Defendant in Error. And the Course of the Evidence on both sides was as follows, (viz.)

The Plaintiff in Ejectment gave Evidence, That Lord *Nathaniel* was seized in Fee Simple of the Premises, and that he died the Third of *January*, 1709. without Issue: And that the Premises after his Death, descended to the said *Cecil Fiennes* (commonly called *Lady Langley*) and *Cecil Mignon* the lessors of the Plaintiff, as in the above Pedigree is set forth.

The Defendants in that Action, and now Plaintiffs in Error, at the said Tryal gave in Evidence, That Lord *William*, Father of the last Lord *Nathaniel*, was seized in Fee Simple of the Premises: And that he levied a Fine in *Trinity* Term, 26th. *Car. 2d.* to *Humphry Butler*, and *Richard Edwards*, Esqs; of all the Premises; (except the Lands in *Banbury*) And that by Indenture made before the levying of the said Fine, it was declared, That the said Fine should be to the Use of the said Lord *William* for Life, and then to the Use of the First Son of his Body, and the Heirs Male of such First Son; And then to the Use of *John Fiennes*, Esq; Father of the now Lord *Say and Seale*, and the Heirs Males of his Body: And that *William* had Issue of his Body, the last Lord *Nathaniel* his only Son. And that afterwards by another Indenture, made 22d. *February*, 3d. *Ja. 2d.* Lord *William* Covenanted, That he would stand seized of the Lands in *Banbury*, to the Use of himself for Life, and then to the Use of the said *Nathaniel* his only Son, and the Heirs Male of his Body; And then to the Use of the said *John Fiennes*, Uncle of the said Lord *William*, and the Heirs Male of his Body; And that *John Fiennes* had Issue the now Lord *Say and Seale*.

The Plaintiff in that Action, to prove that Lord *Nathaniel* had barred that Entail, and the Remainder gave in Evidence, a Fine levied on the First Day of *Michaelmas* Term, 1701. by Lord *Nathaniel*, to *Bezaleel Knight*, Gent. of the Premises, and also a Copy of the Writ of Entry, returnable after the said Fine, (viz. *Octab. Martini* in *Michaelmas* Term, 1701. which was the 18th. Day of *November*) and the Recovery thereupon suffered in the same Term, wherein *Jonathan Johnson* was Demandant, *Bezaleel Knight* Tenant, and Lord *Nathaniel* Vouchee. And that by such Fine and Recovery, the Estate Tail in Lord *Nathaniel*, and the Remainder in Tail in the now Lord *Expectant* thereupon were docked and barred.

The Plaintiff in the said Action, further to prove, There was a good Tenant to the Freehold in the said Recovery, not only by Virtue of the said Fine, Proved a Deed of Bargain, and Sale, dated the 28th. Day of *October*, 1701. and duly Acknowledged and Inrolled, the same Day in the Court of *Queen's Bench*, made between the said Lord *Nathaniel* of the First Part; *Bezaleel Knight*, the Tenant in the Recovery, of the Second Part; and *Jonathan Johnson*, the Demandant, of the Third Part, Wherein, It is Witnessed, That in Consideration of Five Shillings by *Bezaleel Knight*, to Lord *Nathaniel*, in Hand Paid: As also for the cutting off all Intailes, and for the barring of all Remainders and Reversions, of, in, and upon all and singular the Premises: And for Settling and assuring the same, to Lord *Nathaniel*, and his Heirs, Did Bargain, Sell and confirm unto *Bezaleel Knight*, and his Heirs, all the Premises, To the use of *Bezaleel Knight*, and his Heirs: And to the end that *Knight* might become Tenant to the Freehold, whereby a good Recovery might be had and suffered, It was Covenanted and Agreed upon by all the Parties, That *Johnson* should, before the end of that *Michaelmas* Term, bring a Writ of Entry, returnable in the Common Pleas against *Knight*, In which Writ, *Johnson* should demand against *Knight*; *Knight* Vouch to Warranty Lord *Nathaniel*, who should Vouch to Warranty the common Vouchee. And that such Recovery should be to the use of Lord *Nathaniel*, his Heirs and Assigns for ever; And to no other Use, Intent, or Purpose whatsoever.

To which the Lord *Say and Seale*, the Plaintiff in Error, did Object, That there was no Tenant to the Freehold, at the Time of suffering the Recovery; And did offer to give in Evidence, a Record of the Acknowledgment, of a Concord of a Fine under the Hand of *Sir Thomas Trevor*, Chief Justice of the Common Bench, By which he insisted it would appear, That the Acknowledgment of the Concord of the Fine, by Lord *Nathaniel* to *Knight*, given in Evidence by the then Plaintiff, was made or taken upon the Second Day of *March*, 1701. And further to prove this, they offered in Evidence, the Files of all the Acknowledgments, of all ConCORDS of Fines, in *Michaelmas* Term, 1701. By which they insisted it would appear, That Lord *Nathaniel* did not Acknowledge any Concord of a Fine in that Term.

The Lord *Say and Seale* did also Object, That the said Indenture of Bargain and Sale was Void; And that Lord *Nathaniel* did not thereby convey the Freehold to *Bezaleel Knight*, and his Heirs, because Lord *Nathaniel's* Name was omitted, before the Words of Bargain and Sale.

The then Plaintiff, and now Defendant in Error, in Answer, did insist, That the Caption of the Fine ought not to be admitted against the Record of the Indenture of the Fine. And that Fines are so Sacred in the Law, upon which all Estates of Noblemen and Gentlemen do depend, That it would shake all Settlements in Families, and introduce the greatest Uncertainties, and Confusion in all Conveyances by Fines, That it never was attempted before to set aside a Fine upon Evidence: That in the Indentures of all Fines, the Concord is Recorded to be made in Court. Whereas the Captions of the Acknowledgments of all Fines (except very few) are taken out of Court, either before the Lord Chief Justice of the Court of Common Pleas, or before Commissioners in the Country. And upon a Writ of Error, an Error cannot be assigned in the Caption varying from the Record, being an Error contrary to the Record of the Indenture of the Fine. And if the Law was otherwise, it might endanger all Fines.

And it was further insisted, That if the Fine was irregular, (which was in no wise admitted) yet the proper Method was to apply to the Court of Common Pleas, where the same was levied: But not to attempt in a summary Way, to invalidate it upon Evidence at any Tryal.

In Answer to the Objection against the Bargain and Sale, 'twas insisted on for the then Plaintiff, that it appeared upon the Face of the Deed, That the Consideration Money is therein mentioned to be paid by *Bezaleel Knight*, to Lord *Nathaniel*; And it was for barring all Intailes and Remainders in the Premises, and assuring the same to Lord *Nathaniel*, and his Heirs.

And that it appeared, as well by the said Deed, as by the Evidence on the Tryal, That the Mannors and Lands in the Bargain and Sale, mentioned, were Lord *Nathaniel's*. And that the Intent of the Deed, was to make *Bezaleel Knight* Tenant of the Freehold, and that *Jonathan Johnson* should be Demandant against *Bezaleel Knight* Tenant; And that *Bezaleel Knight* should Vouch Lord *Nathaniel*.

The Court upon full Consideration of these Matters, were all Unanimously of Opinion, That the Caption of an Acknowledgment of a Concord of a Fine, by Lord *Nathaniel* to *Bezaleel Knight*, alledged to be taken the Second of *March*, 1701. ought not to be admitted in Evidence, to falsify the Record of the Indenture of the Fine, levied by Lord *Nathaniel* in Court, which was given in Evidence by the then Plaintiff: And that it was never attempted upon any Tryal to give such Evidence against a Fine, that it was against all the Rules of Law, and would endanger and overthrow all Settlements and Securities by Fines.

The Court were also unanimously of Opinion, That Lord *Nathaniel* did by the said Bargain and Sale, well convey the Freehold to the said *Bezaleel Knight*.

Thereupon, The Lord *Say and Seale* did pray a Bill of Exceptions as to both these Points, which was granted by the Court.

Thereupon, The Court directed the Jury to find for the then Plaintiff, who gave a Verdict for the Plaintiff accordingly, in Favour of the Coheiresses.

Lord *Nathaniel* having occasion for 6000*l.* and intending to borrow the same of the Lady *Elizabeth Crew*, (now Countess of *Arran*) in order to make a good Security for the same, did Execute the said Bargain and Sale, and levy the said Fine, and suffer the said Recovery in *Michaelmas* Term, 1701. And did afterwards, the 17th. of *July*, 1702. make a Mortgage to Lady *Crew* for the same, which was afterwards, the 9th of *August*, 1706. Assigned to Mr. *Farrer*, and Mr. *Petyt*, and 4400*l.* and Interest is still due to them upon that Mortgage. But the Title appearing to plain in the Coheiresses, and the Mortgage depending upon the same Title, the Court was not troubled with proving the said Mortgage and Assignment; and a Verdict at the Plaintiffs desire only found for the Coheiresses.

The Lord *Say and Seale*, did in *Michaelmas* Term last after the Tryal, move the Court of Common Pleas to set aside the Fine as Irregular, upon pretence the Acknowledgment was taken the Second of *March*, 1701. after a Term intervening after the Fine. But nothing appearing contrary to the Antient Course of Fines, or Irregular, the Court would do nothing in it.

For all which Reasons the Defendant in Error hopes, that the Coheiresses of Lord *Nathaniel*, have a good Title to the Mannors and Lands in Question; And that consequently the Mortgagees of Lord *Nathaniel*, shall not be defrauded of their Mortgage Moneys, And, That the Judgment shall be affirmed.

affirmed 24 May. 1712.

Edward Northey.
Robert Raymond.

Trin. 26. *Caroli 2d.*

27 *Feb.* 3^o *Jacobi 2di.*

Michaelmas Term, 1701.

28. *October*, 1701.

Note, These are the
Words of the Deed.

About 3000 Fines are
levied every Year, where-
in the Acknowledgments
are taken in the Country,
and yet the Records of
all these Fines are made
up and entered, as acknow-
ledged in the Court of
Common Pleas, before the
Justices of that Court.

Note.

17. *July*, 1702.
9. *August*, 1706.

Note.

Lord Viscount Say and Seale,
and others, Plaintiffs.
Henry Lloyd, upon the Demise } In Error.
of Cecill Fiennes, Widow, }
and others, Defendants.

The Defendants CASE.

To be Heard in the House of Lords, on
~~the 24~~ the 24 day of May. 1712.
Saturday

K-
Dame Margaret Eustace, Wi-
dow and Relict of Sir Mau-
rice Eustace, Bar. Deceas'd.) Appellant.

Thomas Keightly, Esq; Lucius
O Bryan, Esq; and Katherine his
Wife, and Sir William Fownes, Kt.) Respondents

From a Decree made in *Chancery* in *Ireland* the 26th
Day of *February*, 1712. Wherein the Appellant was
Complainant, and the Respondents Defendants :
As also in a *Cross Cause*, wherein the said
Mr. Keightly was Complainant, and the Appellant
Defendant.

The Appellants CASE.

SIR *Maurice Eustace* the Appellant's late Husband, in Consideration of a Marriage to be had, and of 2000*l.* Marriage-Portion paid him by Appellant's Father, Sir *Thomas Newcomen*, did by Deeds of Lease and Release executed before Marriage, settle and convey all his Estate in *Castlemartin*, &c. in *Ireland*, to the Uses in the said Release; and thereby part of the said Lands were limited in Joynture to Appellant for her Life, with a Clause, That if the particular Lands settled for Joynture did not really yield her the clear yearly Rent of 400*l.* per Annum, over, and besides Reprises, she should have and receive so much of the Rents, Issues and Profits of the rest and residue of the said Premises as should make compleat the said Sum of 400*l.* per Annum.

By the said Settlement Sir *Maurice* was only made Tenant for Life, and having after the said Settlement Contracted several Debts, he by very undue Practices got into his Hands the said Settlement, and wrongfully destroyed the same, and Appellant's Father threatening to Sue him.

Sir *Maurice* by Deeds of Lease and Release, (reciting his Agreement before Marriage for Settling 400*l.* per Annum Joynture) conveyed all his Estate to Appellant's Father, and others to the same Uses, as in the first Settlement, and with like Clause for the securing the Deficiencies of the Joynture-Lands settled for 400*l.* per Annum; and by this Deed reserved a Power to charge all his Estate, (excepting the Joynture-Lands) with 1500*l.*

Sir *Maurice Eustace* was Attainted of High-Treason for the late Rebellion in *Ireland*.

1691.

Sir *Maurice Eustace* dyed in *France*, and Appellant being then with him there, was not able to return from thence till 1695, and was deprived of the Rents and Profits of her Joynture during all that Time, and two Years after.

Oct. 15, 1693;
and 16th,
1695.

*Decree in chancery of Ireland reversed
with directions 29 June 1713.*

She

- 19th, 6. She Exhibited her Petition of Right in the *Petty-bag* in the Court of *Chancery* in *Ireland*, for obtaining Possession of her Joynture, and the Attorney-General confessed her Title thereon, and thereupon she obtained a Writ of *Anoveas Manus*, and after great Opposition by the Creditors of Sir *Maurice*, (who were then in Possession upon Extents on Judgments against Sir *Maurice*) She was the 25th of *May*, 1697, put into Possession of her Joynture-Lands, but could not get Tenants for the same till *August* and *December* following, about which time she Lett them at the best Improved Rent, amounting in all to 306*l.* 10*s.* 6*d.* per *Annum*, and no more above quit Rents.
- February, 1697. Appellant for Recovery of Deficiencies of her Joynture, and the Arrears thereof from the Death of her Husband, and the further growing Payments, did Exhibit her Bill in the Court of *Exchequer* in *Ireland* against His then Majesty's Attorney-General; and Mr. *Keightly*, who had in the Year 1696 obtained a Grant from King *William*, amongst many other Lands, all her Husband's Estate (not limited in Joynture to her) for the Term of 99 Years; the said Mr. *Keightly* having previous Notice of the said Settlements.
- February 17th, 1699. The Appellant obtained a Decree for Recovery of the said Deficiencies of her Joynture, and the Arrears thereof out of the rest of her Husband's Estate; and it was thereupon Referr'd to the chief Remembrancer to State the Account of such Arrears and Deficiencies.
1700. After such Decree in the Court of *Exchequer* the *Resumption Act* Pass'd in *England*, and therefore she did not Proceed upon the said Decree, but afterwards.
- August 5th, 1700. The Appellant Exhibited her Claim to the Trustees, grounded on both the said Settlements, on the said Decrees and Subsequent Proceedings, and Claimed her said Joynture, and all her said Deficiencies from the Death of her Husband, and the Arrears thereof, and also the Arrears of the 400*l.* that was Settled on her, due to her from the Death of her Husband, and the growing Deficiency that should become due to her, and Moneys paid by her on several Judgments of Sir *Maurice*, which she had Assigned to her, amounting to 3472*l.* 17*s.* 8*d.* to be Charged on the Remainder of the said Estate.
- February 28th, 1700. The Trustees declared their Final Judgment, and allowed her Joynture by the first Deed to be 400*l.* per *Annum*; but they did not draw up their Decree or Certificate upon such Judgment till April, 1703. And then it was Issued under their Hands and Seals, whereby it was Decreed that the Appellant should Hold and Enjoy the particular Lands limited to her for, and during her Natural Life for her Joynture, and that her Claim should be, and was thereby allowed for the same, with all such Benefit and Advantage, to which she was, or could be Entitled, either in Law or Equity. And it was further Decreed, that she should receive the Sums due to her on the Judgments by her Bought, amounting in all to 1076*l.* 17*s.* 2*d.*
1702. An Act Pass'd in *England*, April, 1702, for Relief of Mr. *Keightly*, whereby it is Enacted, That nothing contained in the Act for Sale of the Irish Forfeitures should make void the Grants made to him; but that he, his Executors and Assigns under the Limitations, Trusts and Provisoos in the said Act after Declared, should hold the Lands in the said Letters Patents mention'd, during the Term thereby Granted, and the Lands of *Castlemartin*, and several other Lands, late of Sir *Maurice Eustace*, are thereby declared to be granted to Mr. *Keightly*, his Executors and Assigns, charged with such Rents as the same were chargeable with before the Forfeiture. And by the said Act it was thereby further Provided and Enacted, that the Appellant should Hold and Enjoy her Joynture of 400*l.* per *Annum*, and all Debts by Judgments due to her, as the same had been allowed to her by the said Trustees, and should also have and receive all Arrears of her Joynture which had accrued and grown due since the Death of her Husband, and did save to her all such Right, Title and Interest, Claim and Demand as she had, or could or might have in Law or Equity, of, into, or out of the Premises, or any part thereof; any thing in the said Act before contained, or otherwise to the contrary thereof in any wise notwithstanding; With a general saving to all Persons except the Trustees.
- Nota.
- July 6. 1702. The Trustees by their Order dated the 6th of July, 1702. reciting that the Appellant was entituled to the Arrears of her Joynture since the Death of her Husband, by a Clause in the said Act they refer'd it to Mr. *Spy*, their Master of the References to State the Account, first giving Mr. *Keightly* Notice, and accordingly Notice being given.
- Aug. 28. 1702. Mr. *Spy* in the Presence of Mr. *Oliver Weston*, the Appellant's Agent, and Mr. *Benjamin Chetwood*, Agent for Mr. *Keightly*, and after an Attendance by them for above Six Weeks, stated the Account, and reported that after deducting what the Appellant had received out of her Joynture-Lands, there remained due to her on account of the Arrears due to her from the Death of Sir *Maurice* to May, 1702. out of the Premises, the Sum of 1918*l.* 4*s.* 11*d.* which Sum was charged by the Trustees among the Incumbrances affecting the forfeited Estate of Sir *Maurice Eustace*, and a Deduction was accordingly made, upon their Estimate of the Value of what remained in them to be Sold, and publick Notice given to the Purchasers thereof, viz. to *John Asgill*, Esq; who, in Trust for Mr. *Keightly*, purchased for 312*l.* the Reversion expectant on his Term of Ninety nine Years; and likewise to Mr. *Keightly*, who, for 100*l.* purchased the Reversion of the Joynture-Lands, expectant upon the Appellants Death. And accordingly in the Two Deeds of Sale

Sale made by the Trustees to Mr. *Afgill*, and to Mr. *Keightly*, in June, 1703. the Lands are subjected to all such Claims and Demands as had been allowed by the said Trustees; and there is inserted an express Saving to the Appellant, of all such Claim and Demand as she had or might have by the aforesaid Act made for Relief of Mr. *Keightly*.

Nota.

Afterwards the Appellant applied to Mr. *Keightly* for the 1918 l. 4s. 11 d. who prevailed on the Appellant to assign over all the Judgment-Debts, and other Incumbrances, by her bought in to Sir *William Fownes*, by Two several Deeds dated the 18th of November, 1703. but therein Sir *William* covenants that such assigned Incumbrances should not be set up or made Use of to obstruct the Receipt of all or any Part of her Arrears of her 400 l. per Annum Joynture from the Death of her Husband.

Mr. *Keightly* hath received great Sums by Fines and Rents out of the said Estate, and the Estate in his Hands ought to stand charged with the said 1918 l. 4s. 11 d. and Interest from the stating thereof, and with all subsequent Deficiencies of the said Joynture.

The Appellant has contracted great Debts in Prosecution of her Right for Seventeen Years past, Dec. 10. 1709. and has been lately forced to sell near half of her Joynture to Sir *William Fownes*, for Payment of some Debts, to obtain her Liberty out of Prison, where she continued near Two Years, and her Daughter *Frances*, who had a Charge upon the said Estate for 3000 l. for her Portion, which was decreed to her with Interest by the Trustees, was forced to sell the same (amounting for Principal and Interest to above 5000 l.) for 2800 l. for Support of the Appellant: And her Daughter hath also engaged with her Mother the Appellant in several great Debts, for enabling her said Mother to prosecute her Right; whereby they are both reduced to great Want, and almost utter Ruin.

Appellant preferr'd her Bill in the Court of Chancery in Ireland, against the said Mr. *Keightly*, Aug. 22. 1710. to have a Satisfaction out of the said Estate for the said 1918 l. 4s. 11 d. to charge the said Estate with the subsequent Deficiencies of her Joynture, and to ascertain the same, and to be relieved in the Premises, and Mr. *Keightly* having afterwards exhibited his Cross Bill.

These Causes came to be heard before the Right honorable the Lord Chancellor of Ireland, Feb. 26. 1713. who decreed that the several Towns and Lands or *Castlemartin*, and other the Lands late of Sir *Maurice Eustace*, and since granted to Mr. *Keightly*, were not to be charged therewith from the Year 1696. to the Time of the Trustees Decree, dated the 28th Day of February, 1700. in regard Mr. *Keightly* was never in Possession of the Joynture-Lands; and that the Lands so granted to Mr. *Keightly* ought not to be charged with the Deficiency claimed by her to the said 28th Day of February, 1700. in regard she claimed the said Deficiency before the Trustees, and they had decreed her to hold her Joynture-Lands, and say they were then worth 400 l. per Ann. and have not in express Terms decreed any Deficiencies to her: And it was further adjudged that she was entitled to the Deficiencies from the said 28th of February, 1700. to the 10th of December, 1709. being the Time of her Sale to Sir *William Fownes*, for ascertaining whereof it was order'd that a Tryal at Law should be had between her and Mr. *Keightly*, upon the Issue following, viz. what was the Yearly Value of the Joynture-Lands from the said 28th of February, 1700. to the said 10th of December, 1709. and after such Tryal his Lordship would consider whether Mr. *Keightly's* Person or Estate should be charged with the Deficiency, if any.

Which Decree the Appellant hopes, and is advised is contrary to the Rules of Law and Equity.

First, Because she had obtain'd in the Court of *Exchequer* in Ireland a Decree against Mr. *Keightly* for the Deficiencies of her Joynture, and the Arrears thereof, out of the rest of her Husband's Estate.

Secondly, Because she was kept out of her Joynture by Extents upon Judgments against Sir *Maurice*, whose Estate was obliged to make her Joynture clear 400 l. per Annum.

Thirdly, Because the Trustees had decreed to her her Joynture, with all such Benefit and Advantage to which she could be entitled either in Law or Equity.

Fourthly, Because the Act for Relief of Mr. *Keightly* does enact that she should have and receive all Arrears of her Joynture which had accrued and grown due since the Death of her Husband; and did leave to her all such Right, Title, and Interest, Claim and Demand as she had, or could or might have either in Law or Equity of, into, or out of the Premises, or any Part thereof, any thing therein contained or otherwise to the contrary thereof notwithstanding.

Fifthly, Because the Trustees in Pursuance of Mr. *Keightly's* Act had referr'd it to Mr. *Spry*, Master of the References to state the Account of what was due to the Appellant for the Arrears of her Joynture, since the Death of her Husband; in the taking of which Account Mr. *Keightly's* Agent did constantly attend; and thereupon the said Master did report due to her for the said Arrears,

Arrears, the Sum of 1918 l. 4 s. 11 d. which Sum was charged by the Trustees among the Incumbrances affecting the forfeited Estate of Sir *Maurice Eustace*, and a Deduction was accordingly made upon their Estimate, of the Value of that Estate to be Sold.

And therefore Appellant hopes that the said Decree shall be reversed, and that the said 1918 l. 4 s. 11 d. reported due to her for the Arrears of her Joynture, and Interest for the same from the stating thereof, and also the subsequent Deficiencies to the 10th of December, 1709. (when she was forced to sell the same to Sir William Fownes) shall be decreed to her, and the Estate decreed to be chargeable therewith, and that so much thereof may be sold as shall be sufficient to pay her, and that she may have her Costs of this Suit.

Edw. Northey.

John Pratt.

Lady *Eustace*, Appellant.

Keighly and others, Respondents.

THE

Appellants CASE.

To be Heard

in the HOUSE of LORDS,

ON Monday 29.
Day of June, 1713.

Jonathan Shere, Gen^t
Appell^t.

Joseph Cock,
Respond^t.

The Appellant's C A S E.



DAT the Respondent, and one David Codd, and William Wogan, having occasion for 200*l.* apply'd to the Appellant to procure the same; and upon the Appellant's Application in their behalf to one George Robinson, Esq; obtain'd his Promise to furnish them with that Sum, so as the Appellant would likewise become bound with them; and they prevail-

Dec. 7. 1705. ing with the Appellant therein, afterwards, on the 7th of December, 1705, the said Robinson lent and paid the said 200*l.* to the Respondent, and Codd, and Wogan, who divided the same amongst them, without the Appellant's having one Penny thereof; and the Appellant, at their request, became bound with and for them, to the said Robinson, in a Bond of 400*l.* Penalty, to pay the said 200*l.* and Interest, the 8th day of March then next ensuing: And then the Respondent, and Codd, and Wogan, gave the Appellant a Counter-Bond, in 800*l.* Penalty, to pay the said 200*l.* with Interest, unto the said Robinson, on the said 8th day of March.

Trin. Term, 1706. **That** the said Robinson being unpaid, **He, about Trinity Term, 1706,** put his Bond in suit against the Appellant, and Respondent, and the rest of the Obligors, in several Actions; and they in Defence thereof employ'd the Appellant as their Attorney at Law, and as their Solicitor in the bringing a Bill in the Court of Chancery, to be reliev'd against the Penalty of that Bond; and the Appellant therein laid out considerable Sums of Money, and was greatly damnify'd thereby, and by the Action brought against himself: And the Respondent, and the rest of the Obligors, refusing to re-imburse the Appellant his said Expences; **He about Hilary Term, 1708,** put his Counter-Bond in Suit against the Respondent only, and accepted only of a bare Appearance: **Whereupon** the Respondent mov'd the Court of Common-Pleas to have the Appellant's Bills Tax'd, and brought the said Codd with him to consent, by Rule of Court, to pay the Appellant what the Prothonotary should Tax to be due to him; but neither the Respondent, nor Codd, proceeding upon that Rule, the Appellant mov'd the Court that he might therefore proceed in his Action; and obtain'd liberty so to do.

Brought a Bill in Chancery. **That** thereupon the Respondent Exhibited his Bill in the Court of Chancery, for Relief against the said Counter-Bond, and obtain'd an Injunction to stay the Appellant's Proceedings at Law.

Answered. **That** the Appellant put in his Answer to the said Bill, and thereby deny'd all the pretended Equity thereof, and annex'd thereto a Bill of his Disbursements and other Demands, and submitted to have the same Taxed, and to deliver up the said Counter-Bond, on Receipt of such Costs and Damages as the Master should award and Tax to be paid him.

Cross-Bill and Petition to the Master of the Rolls, Feb. 14. 1710. **That** the Appellant Exhibited a Cross-Bill against the Respondent, and the rest of the Obligors, for a Discovery (*inter alia*) of his Retainers; and upon his Petition to his Honour the Master of the Rolls, Feb. 14, 1710. obtain'd an Or-

der to stay Proceedings in the Original Cause, till all the Defendants should have answer'd the said Bill, and that then both Causes should come on to be heard together: **Whereby** Publication was stay'd in the Original Cause, according to the Rules and constant Practice of the Court.

Jun 28. 1711. **That** on the 28th of *June*, in the Year 1711. the *Respondent* mov'd the Court to discharge the said Order made by the *Master of the Rolls*; and on hearing the Counsel on both sides, it was Order'd by the Right Honourable the Lord Chancellor *Harcourt*, then Lord-Keeper of the *Great-Seal*, **That** the *Respondent's* Clerk in Court should give the *Appellant's* Clerk in Court a Note in Writing, where the said other Defendants lived, and were to be heard of, and the *Appellant* was to proceed against them; which Note never was given: Yet on *Jul*. 20. 1711. the 20th of *July*, 1711. the *Respondent* obtain'd an Order, **Whereby** the Order of the 14th of *Feb*. 1710. was discharg'd, and the *Appellant* thereby deprived of the Benefit of the other Defendants Answer to his said Cross-Bill, and also of the Benefit of Examining his Witnesses.

Mich. Term, 1711. **That** the Cause then, and long before, stood in the Paper to be heard before the *Master of the Rolls*; yet the *Respondent's* Clerk in Court (without having any Order to Transfer the same) set down the said Cause to be heard before the said Lord-Keeper, as an Original Cause; and in *Michaelmas Term*, 1711. brought on the same to be heard before his Lordship, without giving any Notice thereof, either to the *Appellant*, or his Clerk in Court; and by that means the Cause was heard *ex Parte*, and a Decree thereupon obtain'd against the *Appellant*, as upon his Default: **Whereby it is Ordered**, That the said *Robinson* should, at the *Respondent's* Charge, acknowledge Satisfaction on Record, of the Judgment obtain'd by him against the *Respondent*, and that the *Respondent* should pay him 40s. for his Costs in the said Suit. And it was further **Ordered and Decreed**, That the *Appellant* should pay unto the *Respondent*, all Costs which he had been put to at Law, by the Suit brought against him by the said *Robinson*, together with what Costs the said *Respondent* did pay in that Suit; and if the *Respondent* was then liable to pay any Costs therein, It was **Ordered and Decreed**, That the *Appellant* should **Indemnifie** the *Respondent* against the same; and if the *Respondent* hath been put to any Costs, by reason of the *Appellant's* putting his Counter-Bond in Suit, the *Appellant* is also to pay the same, together with such Costs as the *Respondent* shall pay to the said *Robinson*; and likewise the *Respondent's* own Costs of this Suit, to be Taxed by Mr. *Orlebar*, who is also to see what Costs the *Respondent* hath paid, and which are to be repaid by the *Appellant*; and also what Costs the *Respondent* is liable to pay, and against which the *Appellant* is to Indemnifie him as aforesaid. And it was further **Ordered and Decreed**, That the *Appellant* should deliver up his said Counter-Bond to be cancelled, and that a perpetual Injunction be awarded for stay of all further Proceedings at Law against the Plaintiff upon the same: And in Default of the *Appellant's* paying to the *Respondent* such Costs as aforesaid, **It was Ordered and Decreed**, That the Defendant *Codd* do pay the same to the *Respondent*; but in such Case, the said *Codd* is to be at liberty to make use of the *Respondent's* Name, to recover the same back again from the *Appellant*, he the said *Codd* **Indemnifying** the said *Respondent* therein, unless the *Appellant* should, at the Return of a *Subpana*, to be served on him for that purpose, shew unto the Court good Cause to the contrary; but before the *Appellant* was to be at liberty to shew such Cause, he was to pay unto the *Respondent* his Costs, to be Taxed by the Master, for the Days Default in Attendance.

May 7. 1712. **That** the *Appellant* being served with a *Subpana*, to shew Cause against the said Decree, on the 7th of *May*, 1712. he did, by his Counsel, insist upon the Irregularity of the Proceedings in hearing the said Cause: **Whereupon**, the Court order'd, That it should be referr'd to Mr. *Rogers* to Examin into the said Irregularity, and to state the whole Matter to the Court.

That Pursuant to the said Order, the *Master*, being attended by all Parties, made his Report the 14th day of *May* aforesaid; and thereby Certify'd, That the said Proceedings were Irregular. **That**

Jul. 30. 1712. **That** the *Respondent* took Exceptions to the said Report; which coming on to be Argu'd the 30th of *July*, 1712. the said Report was Discharg'd, and, *Aug. 1. 1712.* by an Order made the *First* day of *August* following, **The said Decree** was made Absolute.

Reasons against the Decree. **That** the *Appellant* humbly Conceives, and is Advis'd, that the said Proceedings and Decree aforesaid are Erroneous.

First. **For** that by the Order of the 20th of *July*, 1711. the Order of the 14th of *Feb.* 1710. was discharg'd, and thereby the *Appellant* was depriv'd of Examining his *Witnesses*, and the said *Respondent's* Cause was heard, *ex parte*, as against the *Appellant*; which ought not to have been done, but both the Causes ought to have been heard together, and Publication to have been stay'd, until the *Defendants* had answer'd the *Appellant's* Cross-Bill.

Secondly. **For** that by the Order of the 30th of *July*, 1712. the Report of the said *Master* was discharged, and by an Order of the *First* of *August* following, the Decree was made absolute: But, on the contrary, the said Report ought to have been Confirm'd, and made Absolute, and the Decree set aside, as Irregularly obtain'd.

Thirdly. **The said Order and Decree**, made on the *Hearing*, is in it self Erroneous: For, *First*, **It was Ordered and Decreed**, That the *Appellant* should pay the *Respondent* all Costs which he had been put to at Law, by the Suit brought against him by the said *Robinson*, together with what Costs the Plaintiff paid him in that Suit; and that the *Appellant* should *Indemnifie* the *Respondent* against such Costs as he was then liable to pay therein: **Whereas** the *Appellant* ought not to pay the *Respondent* any such Costs, or any part thereof, or to be compell'd to *Indemnifie* the *Respondent* against any Costs he was liable to pay. *Secondly*, For that it was **Ordered and Decreed**, That the *Appellant* should pay the *Respondent* his Costs of the *Appellant's* putting his Counter-Bond in Suit, together with such Costs as the *Respondent* should pay to the *Defendant Robinson*, and likewise the *Respondent's* Costs of this Suit: **Whereas** the *Appellant* ought not to pay any such Costs, or any part thereof. *Thirdly*, For that **It was Ordered and Decreed**, That the *Appellant* should deliver up his Counter-Bond to be cancell'd, and that a perpetual Injunction should be awarded, for stay of the *Appellant's* further Proceedings at Law against the *Respondent* upon the same: **Whereas** the said Counter-Bond ought not to have been **Ordered or Decreed** to have been deliver'd up, nor any Injunction to be awarded. *Fourthly*, For that **It was Ordered and Decreed**, That in case the *Defendant Codd* should, in the *Defendant's* Default, pay the *Respondent* such Costs as aforesaid, he the said *Codd* should be at liberty to make use of the *Respondent's* Name, to recover the same back again from the *Appellant*: **Whereas** no such **Order or Decree**, in that Matter, ought to have been made.

With which Erroneous Proceedings and Decree, the *Appellant* is very much aggrieved.

For which, and divers other Reasons, which the Appellant's Counsel will humbly Offer to your Lordships, the Appellant humbly hopes your Lordships will find just Reason to Reverse the said Proceedings and Decree, and to give the Appellant his Costs, and such further Relief therein as the Nature of his Case requires.

J. Pratt.
N. Lechmere.

Jonathan Shere, Gent.
Appellant.

Joseph Cock, Respon-
dent.

The CASE of the Appell^t.

To be heard before the House
of *Lords* on *Friday*, the *19th*
of this *instant June*, 1713.

Edward Rooper, Esq;
Cousin and Heir of John
Rooper, Esq; Deceased. } Appell^{nt}.

Robert Hewett and Daniel
Hickman (the Protestant Exe-
cutors of the said John Rooper,)
Thomas Radcliffe and William
Constable (the Popish Executors
of the said John Rooper,) Ri- } Respond^{ts}.
chard Snow, William Plow-
den, Robert Cotton, John
Proby, Eliz. Walden, Hester
Walden, Mary Fletcher, and
Charles Mannors,

The Appellant's C A S E.

17 & 18
Jan. 1708.

THE said *John Rooper*, being Seiz'd in Fee of several Manors, Lands and Hereditaments in *Cornwall*, *Gloucester* and *Monmouthshire*, of about the Yearly Value of 170 *l.* old Rents, but of the Improved Value of about 700 *l.* per Ann. did, in Consideration of 10 *s.* and for settling the Premises upon the Trusts, and for the Intents and Purposes after-mentioned, by Lease and Release, Grant and Convey all the said Manors and Premises to the Respondents, *Constable*, *Hickman* and *Snow*, and their Heirs, In Trust, to Sell the same for the best Price; and out of the Monies arising by Sale, and by the Rents and Profits thereof, until such Sale, to Pay, in the First place, a Debt of 4000 *l.* due to the Respondents the *Waldens*, and secured by a Mortgage of the Premises in *Cornwall*, with Interest; And then, In Trust, for Payment of the Debts mentioned in a Schedule annexed to the said Release, and the Overplus to go as the said *John Rooper*, by his Last Will, or other attested Writing, should appoint; And for want of such Appointment, In Trust, for the Benefit of the said *John Rooper*, and his Heirs.

5 March.
1708.

The said *John Rooper* made his Will, and thereby (reciting the said Deeds of Lease and Release) Confirmed the same, and Bequeathed several Pecuniary Legacies, amounting to about 1000 *l.* out of the said Surplus, and (*inter al*) to the Respondents *Hewett* and *Hickman*, 50 *l.* each for their Trouble; and the Residue of his Real and Personal Estate, he gave to the Respondents *Constable*, *Radcliffe*, *Hewett* and *Hickman*, and their Heirs and Assigns, and made them Joint-Executors.

2 April
1709.

The said *John Rooper* added a Codicil to his Will, and thereby gave several other Legacies, and all the Remainder of his Estate, whether Real or Personal, to the Respondents *Radcliffe* and *Constable*.

20 April
1709.

The said *John Rooper* added another Codicil to his said Will, and thereby gave to the Respondent *Radcliffe*, all his Household Goods, and the Renewal of the Lease of his House, if he pleas'd; and to the Respondent *Constable*, all his Books whatsoever; and soon after Died.

NOTE,

The Respondents *Hewett* and *Hickman* are profess'd Protestants.

The Respondents *Radcliffe* and *Constable* are profess'd Papists, and were so at the time of making of the said Will and Codicils, and were above the Age of 18 Years and 6 Months on the 29th of Sept. 1700.

The said Testator's Real Estate, Devise'd by the Will and Codicils, is of a considerable Value over and above all the said Testator's Debts and Legacies.

10 May
1710.

The Respondents *Radcliffe* and *Constable* brought their Bill in the Court of Chancery, against the now Appellant and the other Respondents, To have all the said Trust-Estate Sold; and after the Debts and Legacies paid, To have the Surplus of the said Trust-Estate divided between them, according to the said Codicil.

The

20 Nov. 1710. The Respondents *Hewett* and *Hickman* brought their Bill, on Behalf of themselves and other the Creditors of the said *Testator*, against the now *Appellant* and the other Respondents; thereby insisting, That they the said *Hewett* and *Hickman* being the only Protestant Executors, and that the other the Executors being *Papists*, and incapable of taking the Surplus of the said Trust-Estate, the same did therefore belong to them the said *Hewett* and *Hickman*.

6 Nov. 1711. The Respondents *Elizabeth* and *Hester Walden* (the Mortgagees,) and *Cotton* and *Proby*, their Trustees, brought their Bill in the same Court against the *Appellant* and the other Respondents, to have a Common Receiver appointed to receive the Rents and Profits of the Trust-Estate, and to apply them to the Payment of the Debts due to them.

To these Three Bills the *Appellant* put in Answers, and by all of them Insisted on the Benefit of the Act of Parliament made in the 11th Year of King *William* the Third, Intituled [*An Act to Prevent the further Growth of Popery* ;] whereby the Respondents *Radcliffe* and *Constable* (being *Papists*) are rendred incapable of taking any thing by the Devises in the Will or Codicils; And further Insisted, That tho' such Devise, by the Codicil, be not sufficient to Vest an Estate in *Radcliffe* and *Constable*; yet that it is a good Revocation of the former Devise to *Hewett* and *Hickman*; it being a plain Indication of the *Testator's* Intention, That they should not take the Premises; And that the Will being Revoked by the Codicils, and the Codicils being Void by reason of the Incapacity of the Devisees therein; And that the *Appellant* being a *Protestant*, and Heir at Law to the *Testator*; is become Entitled (as advised) to the said *Testator's* Estate, subject to such Incumbrances as he really Charged thereon, and was capable of so doing.

And all the several Defendants having put in their respective Answers to the said several Bills, and Issue being joined, Witnesses Examined, and Publication passed in all the Three Causes; on 27 June 1712, the Causes came on to be Heard before the present Lord Chancellor (then Lord Keeper) who was pleas'd to declare, That he would have the Opinion of the Judges, before he would pronounce any Final Judgment in the Causes; and in order thereunto, a Case was made, consisting of the Conveyance, Will, and Codicils, and of the Persons concern'd, being *Protestants* and *Papists*, as is before set forth, with the Queries following, viz.

1st Query. Whether a Papist be disabled, by the Act made in the 11th Year of the late King, for the further Preventing the Growth of Popery, from Conveying or Devising his Real Estate, upon Trust, to Sell the same, and dispose the Money arising by Sale to a Papist?

2d Query. Whether Thomas Radcliffe and William Constable (being professed Papists) are disabled, by the Statute, to take, by the Codicil, the Surplus of the Money arising by Sale of the said Real Estate, pursuant to the said Deed of Trust?

3d Query. Whether a Papist or Person making Profession of the Popish Religion, who was above the Age of 18 Years and 6 Months on the 29th of September 1700, be disabled by the said Statute made in the 11th and 12th of the late King, for the further Preventing the Growth of Popery, to take Lands, by a Devise made after that Time?

Which Case was Argued by Council on both Sides before the Lord Chief Justice Parker, Lord Chief Justice Trevor, and Mr. Justice Powell, at the Lord Chief Justice Parker's Chambers; and the Judges not then giving their Opinions therein,

28 Octob. 1712. The Causes came on to Hearing before the now Lord Chancellor, assisted by the Lord Chief Justice Parker, Master of the Rolls, Lord Chief Justice Trevor, and Mr. Justice Powell; and the Matter being again Argued before them in open Court, and they taking Time to consider thereof,

19 Feb. 1712. The *Appellant* Petitioned the Lord Chancellor, and obtained an Order for the Cause to stand for the final Judgment of the Court; and thereupon,

25 Feb. 1712. The Lords, the Judges, and the Master of the Rolls, having delivered their Opinions, the Lord Chancellor Concurred in Opinion with the Master of the Rolls, the Lord Chief Justice Trevor, and Mr. Justice Powell, but against the Lord Chief Justice Parker's Opinion) and Declar'd, that the Devise of the Surplus of the Purchase-Money (after Debts and Legacies paid) to *Constable* and *Radcliffe*, who are *Papists*, is a good Devise notwithstanding the said Statute; the Surplus being a Personal Interest in them, and therefore not made void either by the Words or Intention of that Statute; his Lordship did therefore Decree, That the Respondents *Hewett* and *Hickman* (the other Executors) and all other Parties who have received

ceived any Part of the Testator's Personal Estate (not specifically devised) should Accompt for the same before Sir *Thomas Gery* for what of the said Personal Estate was come to their Hands; and for Discovery thereof, to be Examined upon Interrogatories; and the Personal Estate (not specifically Devised) to be applied to the Payment of the Testator's Debts, according to the Course of Administration; and the Real Estate, to be Sold to the best Purchaser; and the *Appellant*, the Heir at Law, to joyn in such Sale, being first paid his Costs: And Decreed all Parties that have received any Rents of the Real Estate, to Accompt for the same; and for Discovery thereof, they were to be Examined on Interrogatories, and to produce all Books and Papers relating thereto upon Oath, and the Master to appoint a Receiver of the Rents of the said Trust Estate till a Sale be made, and allow him a Salary, and the Tenants to Attorne and Pay the Arrears and growing Rents to such Receiver, he first giving Security to Accompt and Pay as the Master shall direct: And Decreed the Money arising by Sale, and the Rents received or to be received, to be applied, in the First Place, to Pay the 4000*l.* to the *Respondents* the *Waldens*, the Mortgagees, with Interest and Costs, and the Residue to Pay the Schedule Debts, with Interest, and then all other Debts of the Testator, which his Personal Estate would not Satisfy: And the Master to take an Accompt of the Debts owing by the said Testator at his Death; and all Creditors to have Liberty to prove their Debts before the Master, in order to receive Satisfaction: But if there were any Creditors by Judgment, or other Security affecting the Real Estate, which may entitle them to a Priority of Satisfaction, the Master is to see such Creditors Paid according to Preference they are Entitled to: And after the Testator's Debts Paid, it is Ordered and Decreed, That the Surplus of the Money be applied, in the next Place, to Pay the Legacies, with Interest, for One Year after the Testator's Death, with Costs: And that the Specifick Legacies, be delivered to whom the same are given; and all Parties to *Radcliffe* and *Constable's* Bill to have their Costs out of the Estate; and the Parties to the Legatee's Bill to have 40 Shillings a-piece Costs, Paid out of the Trust-Estate; and as to *Hewett* and *Hickman's* Bill, the Court Declared, That the first Codicil whereby the Testator gives all the Remainder, whether in Land or Personal Estate, to *Radcliffe* and *Constable*, is a Revocation of the Devise in the Will of the Residue of the Real and Personal Estate to *Constable*, *Radcliffe*, *Hewett* and *Hickman*; and that *Hewett* and *Hickman's* Bill are unnecessary; and did therefore Order, That the same be Dismissed without Costs to be Paid by them, but with Costs to be Paid to the Defendants to that Bill out of the said Estate; And after the Debts, Legacies, Interest and Costs Paid, It was Decreed, That the Surplus should be Paid to *Radcliffe* and *Constable* the Devisees; and Ordered, That *Hickman* should, within a Month, Pay Mr. *Smith*, the Guardian of the *Respondents* the Infants, 200*l.* or make Oath that he had not so much in his Hands of the Testator's Estate; and the Mortgagees, before they were to receive Satisfaction, were to bring the Representative of *Proby*, their Trustee, before the Master.

By which Decree the *Appellant* being Aggrieved, doth humbly Appeal from the same to Your Lordships Judgment.

The Clause in the *Act* on which this Case ariseth, is thus:

And that from and after the Tenth Day of April, which shall be in the Tear of Our Lord, One thousand seven hundred, every Papist or Person making Profession of the Popish Religion, shall be disabled, and is hereby made incapable to Purchase, either in his or her own Name, or in the Name of any other Person or Persons, to his or her Use, or in Trust for him or her, any Manors, Lands, Profits out of Lands, Tenements, Rents, Terms, or Hereditaments, within the Kingdom of England, Dominion of Wales, and Town of Berwick upon Tweed: and that all and singular Estates, Terms, and any other Interests or Profits whatsoever out of Lands, from and after the said Tenth Day of April, to be made, suffered, or done, to or for the Use or Behoof of any such Person or Persons shall be utterly Void and of none Effect, to all Intents, Constructions, and Purposes whatsoever.

The *Appellant* humbly insists, That although the said Testator's Codicil devising the Remainder of his Estate, whether Real or Personal, to his *Popish* Executors *Radcliffe* and *Constable*, is a good Revocation of the former Devise to the Protestant Executors *Hewett* and *Hickman*; yet that the same doth not pass the Surplus of the same Estate to the said *Radcliffe* and *Constable*, they being *Papists*, and incapable of taking the Surplus, for the following Reasons.

First, If the Lands be to be Sold, the Surplus Devise'd is an Interest arising out of Lands, and is within the Words of the said Statute, and within the Mischief intended to be prevented thereby.

Secondly, It was in the Power of the said *Popish* Devisees, on Payment of the Debts and Legacies, to have enjoyed the Lands as a Real Interest as long as they pleas'd; and they may do so still, if the Parties shall not think to carry on that part of the Decree which directs a Sale into an Execution.

NOTE, By the Decree, the Profits of the Lands received or to be received, are to be applied to the Payment of Debts and Legacies; whereby the Surplus will be encreased for the Benefit of the said *Radcliffe* and *Constable*; which, as the *Appellant* humbly apprehends, is the Profits of the Land, contrary to the Letter and Meaning of the *Act*.

Wherefore the Appellant humbly hopes, That Your LORDSHIPS will be pleased to Reverse the said Decree, and to Declare, That the Appellant is well Entitled to the Surplus of the said Trust-Estate (after the Debts and Legacies paid) as being the Heir at Law of the said Testator, and a Protestant.

J. JEKYLL.
N. LECHMERE.

NOTE, That the Appeal was Exhibited in the last Session of the last Parliament, but was not Heard then, in regard the House conceiv'd it proper to have the Judges present; and they were going the Circuit; But the House

11 July 1713. Order'd, That the Hearing the Appeal should be Adjourn'd till this Session; and that the Court of *Chancery*, do in the mean time direct, That if the Real Estate should be Sold, before the Appeal should be Heard: The Court of *Chancery* should thereupon Order Satisfaction to be made to the Mortgagees, other Creditors and Legatees; but that the Surplus of the Money (after such Satisfaction) should be secured as the said Court should direct, to wait the Determination of the said Appeal.

Pursuant whereunto, several Purchasors have been allowed for the said Estates, to the Amount of 16680*l.* which is near 10000*l.* Overplus; after all the Debts and Legacies satisfied.

But nothing more is done Pursuant to that Order.

Edward Rooper, } *Appellant*.
Esq;
Robert Hewett, } *Respondts*.
and Others,
The Appellant's CASE.
To be Heard before the HOUSE of
LORDS, on Monday the 26th of
April, 1714.

516 in 18

27

**William Darbison (on the Demise of Thomas Long) Plaintiff,
And John Beaumont and Dorothy his Wife are Defendants.**

Upon a Writ of Error brought by the Plaintiff to reverse a Judgment in the Exchequer Chamber, whereby a former Judgment which was given for the Plaintiff in the Court of Exchequer on a special Verdict in Ejectment stands reversed. **The Plaintiff in Errors C A S E**

BY Direction of the Court of Exchequer an Ejectment was brought to try the Title of several Lands in Cornwall, of about 600 l. per Ann. late the Estate of John Speccott, Esq; Deceased.

Mr. Speccott's Will set forth in the special Verdict.

And a special Verdict was found, whereby it appears, that the said John Speccott being seized of the said Lands the 19th Day of August, 1703. made his last Will and Testament in Writing, and thereby Declares, that as to all his Estate, both real and Personal, of what kind soever, he disposes and limits as therein follows: And first, he directs and appoints, that all his Debts, Legacies, and Funerals be paid by his Executors, and if his Personal Estate was not sufficient, then to be paid out of his real Estate.

And for that purpose, he devised all his said Lands unto his Loving Couzens, John Sparke, and Jonathan Sparke, for 21 Years in Trust to Pay his Debts, Legacies and Funerals; and that when his Debts, Legacies and Funerals should be discharged, the said Term should determine and be void.

And from and after the Determination of that Estate, then he devises the same Lands unto the first Son of his Body lawfully to be begotten, and to the Heirs Males of the Body of such first Son, and in default of such Issue to the Heirs of his Body lawfully to be begotten

And for want of such Issue, then unto his Couzen John Sparke for the Term of ninety nine Years, if he should so long live, and after his decease, to the first Son of the said John Sparke, and to the Heirs Males of the Body of such first Son, and to the second, and every other Son of the Body of the said John Sparke to be begotten in Tayle Male.

Then to his Couzen Jonathan Sparke for 99 Years, and to his first, and every other Son to be begotten in Tayle Male.

Then comes the Limitation, on which the Question is made, which immediately follows and runs thus.

And for, and in Default of such Issue, I give and devise the remainder of all my said Estate to the Heirs Males, of the Body of my Aunt, Mrs. Elizabeth Long, Wife of Richard Long, Clerk, lawfully begotten; and for, and in default of such Issue, the reversion and remainder of all my said Lands and Estate, to be and remain to my right Heirs forever.

The Jury find the Will, *in hac Verba*, in which he takes Notice of his Sister and Heir, Dorothy, the Defendant, Dr. Beaumont's Wife, and that he had 2450 l. of hers in his Hands, which he directs his Trustees to pay, and then gives his said Sister an Annuity of 150 l. out of the said Lands so limited to the said Longs, during her Life, and then gives 500 l. apiece to the Children of his said Sister Dorothy the Defendant, if she should have more than one, and if but one 1000 l. payable out of the said Lands.

Then he takes Notice, that his Aunt Elizabeth Long was living, and had Children, for he gives her a Legacy of 100 l. and to her Children 500 l.

other matters found by the special Verdict.

The Jury further find, that the Testator, John Speccott dyed the 25th of August, 1703. without Issue, and that the said John and Jonathan Sparke entered and were possessed, and raised sufficient to pay Debts, Legacies and Funerals; and find that the said Term of 21 Years is ended and determined.

Then they find that the said John and Jonathan Sparke both died without Issue, and that the Defendant, Dorothy Beaumont, Wife of the Defendant John Beaumont, is Sister and Heir of the said Testator John Speccott, by virtue of which, they in right of Dorothy entered, after the Determination of the said Term of 21 Years.

Then 'tis found, that the said Eliz. Long (Aunt of the said Testator) had at the time of making the said Will 3 Sons of her Body begotten, and no more, and that Thomas Long the Lessor of the Plaintiff, was then the eldest Son of the said Elizabeth Long, and that she was alive at the time of the Death of the said Testator, and is still living.

The Judgment of the Court of Exchequer in affirmance of Mr. Long's Title under the Devise in Question.

This special Verdict was argued twice before the Barons of the Exchequer, by Counsel on both sides; wherein the general Question was between the Defendant Dorothy (who claimed as Heir of the Testator) and the Lessor of the Plaintiff, Thomas Long, who claimed by the Will, as being the Person designed therein by the Limitation to the Heirs Males of the Body of his Aunt Long lawfully begotten, antecedent to the Limitation to the Testator's right Heirs.

of Opinion that the Lessor of the Plaintiff Tho. Long, the Eldest Son of Eliz. Long, had a good Title by the said Will, and thereupon Judgment was given for the Plaintiff.

The Judgment of Reversal upon the Writ of Error in the Exchequer Chamber The particular Question upon the Will.

Upon which a Writ of Error was brought in the Exchequer Chamber by the Defendants, and the Case being argued twice before the two Lord Chief Justices, by Counsel on both sides, they were of Opinion the Judgment ought to be reversed, and the said Judgment was thereupon reversed.

The particular Question on this special Verdict was, whether the Lessor of the Plaintiff Thomas Long, the Eldest Son and Heir apparent of Eliz. Long his Mother, the being living, could take any Estate by the said Limitation in the Will. [And for, and in default of such Issue, I give and devise the Remainder of all my said Estate to the Heirs Males of the Body of my Aunt Mrs. Elizabeth Long, Wife of Richard Long, Clerk, lawfully begotten.] It being objected that (*Nemo est Heres Viventis*) and that Mrs. Long being living there could not in propriety of Speech be any Heir Male of her Body begotten to take by this Will.

Reasons why Tho. Long as heir apparent of Mrs. Long ought to take by the Intent of the Testator.

But it is humbly hoped, that neither this nor any other Objection is sufficient to overthrow the Lessor of the Plaintiff's Title, who was the Person designed by the Testator to take by the Appellation of the Heirs Males of the Body of his Aunt Eliz. Long, lawfully begotten.

The intent of the Testator by the devise (which is the only matter now in question) is to be Collected not only from the Words of the Devise, but also from the several other parts of the Will.

The Word Heir has in the Law several Significations. In the strictest Sense it signifies one who succeeds to a dead Ancestor, but it also signifies in a more general Sense an *Heir Apparent*, which supposes the Ancestor living.

This Word Heir is used in this Sense; in Statutes, Law Books and Records, and since the Law gives to this Word Heir several Senses, it will be hard to Expound it in that Sense which is the strictest and most rigorous, and will destroy great part of the Will, when by Law it may have another Sense which will support the whole Will and Intent of the Party.

The intent of the Party is the principal Rule for the Exposition of a Will, He is excused from using the strict and proper Terms and Phrases of Law, and has Liberty to use such Expressions as he pleases for if they be such as sufficiently declare his Intent it is enough, and his intent shall take place if by any possibility consistent with the Rules of Law.

The Testator in his Will takes Notice that the Sons of his Aunt Eliz. Long were living, and gives them Legacies, and thereby excludes all future Heirs.

He took Notice also, that the Ancestor Eliz. Long was living at that time, and gives her a Legacy, therefore could not intend the first Son should take strictly as Heir, which was impossible, if she was living, but as Heir apparent he might.

He gave his Heir the Defendant Dorothy an Annuity, and did not intend she should have the whole Estate till failure of Issue Male of his Aunt Long, and therefore expressly devised the Lands to his own right Heirs, in default only of the Heirs of the Body of his Aunt Elizabeth Long, so that the intent was plain that the Apparent Heir Male of the Body of his Aunt Long (who is the Lessor of the Plaintiff) should take before his Heir General, who is the Defendant Dorothy, and that she should not take more than the Annuity as long as there should be Issue Male of his Aunt Eliz. Long.

By this construction every part of the Will stands, and is consistent, and no Rule of Law broke, and the Word Heir taken in a Sense the Law allows.

But if construed otherwise several parts, and some whole Lines together of a sensible Will must be expunged, and the Heir at Law must take against the express meaning of the Testator.

Note, The like Case twice adjudged in the House of Lords.

This Case seems to be the very same as the Case of *Burchet and Durdant*, 2 ventr. 311. which had formerly been disputed under the Name of *James and Richardson* 1 ventr. 334. 2 Levins 232. Raymo' 330. 2. Jones 59. Pollex' n 457. where a Devise to the Heirs Males of the Body of Robert Durdant, then living, was adjudged in Westminster-Hall, and twice affirmed in this Honourable House to be a good Limitation to George the Eldest Son of Robert Durdant, tho' Robert Durdant was living.

There can be no great difference between Heirs Males of the Body of Robert Durdant, then living, and Heirs Males of the Body of Aunt Long, lawfully begotten. (Then begotten, being tantamount to then living.)

For the above Reasons (amongst others) three Barons of the Exchequer (whercof the Lord Chief Baron was one) gave Judgment for the Lessor of the Plaintiff, which Judgment was afterwards reversed in the Exchequer Chamber by the Opinion of the two Lord Chief Justices, to reverse which Judgment of Reversal this Writ of Error is brought. And

For the Reasons aforesaid, and for that the first Judgment was (as is humbly conceived) rightly given, it is humbly Prayed, that the said Judgment of Reversal may be reversed.

Reversed. 28 May. 1714.

P. King,
J. Fortescue, Aland.

**T H E
C A S E**

O F

Mr. Thomas Long,

Upon a Writ of Error in Parlia-
ment brought in the Name of

William Darbison,

On the Demise of the said Mr.
Long.

Plaintiff,

A G A I N S T

John Beaumont, Gent.

and Dorothy his Wife

Defendants.

17/4.

Edward Rooper } Appellant.
Esq;

The Hon^{ble} Thomas Radclyffe and
the Hon^{ble} William Constable Esq^{rs}. } Respond^{ts}.
two of the Executors of John
Rooper Esq; deceas'd.

& Hewett.

T H E

Respondents CASE.



TH A T the said John Rooper being seized in Fee of several Manours and Lands in Cornwall, Gloucester and Monmouth, by Lease and Release dated the 17th and 18th of January 1708, did grant and convey the Premises to the Respondents William Constable and to Richard Snow, and Daniel Hickman, and their Heirs in Trust to Sell the same, and out of the Purchase Money and Rents till Sale to pay a Debt of 4000 l. due to Elizabeth and Hester Walden, by Mortgage of the Premises with Interest; and after Satisfaction thereof, then in Trust for payment of the Debts mentioned in a Schedule to the said Deed annexed, and the Overplus of the said Money so to be raised, to be paid as the said John Rooper by any Attested Writing, or by his Will should appoint, and for want of such Appointment, in trust for the Benefit of the said John Rooper and his Heirs.

5 Mar. 1708. The said John Rooper made his Will (reciting the said Lease and Release and the Power reserved to him out of the surplus of the said Estate) and bequeath'd several pecuniary Legacies in the Will mention'd to his Relations, and the residue of all his Real and Personal Estate he gave to the Respondents William Constable and Thomas Radclyffe, and to Robert Hewett and Daniel Hickman, and to their Heirs and Assigns for ever, and made them joint Executors.

1 Apr. 1709. The said John Rooper added a Codicil to his Will, and thereby gave the several further Legacies therein mention'd, and all the Remainder, whether in Lands or Personal Estate, he gave to his Executors the Respondents Radclyffe and Constable.

20 Apr. 1709. The said John Rooper added another Codicil to his Will, and thereby gave to the Respondent Radclyffe all his Household Goods, and the Renewal of the Lease of his House (if he pleas'd) and to the Respondent Constable all his Books whatsoever, and soon after Died.

The Respondents Thomas Radclyffe and William Constable brought their Bill in Chancery against the Appellant, and also against the said Hickman, Hewett, Snow and others, to have the Trust Estate sold, and for an account of the Profits, and after the Debts and Legacies paid, to have the Surplus Money arising by Sale equally divided between the Respondents, according to the first Codicil.

A

To

Received by the Respondents, as to so much of the Surplus, as is due to the Respondents of the Surplus of the Trust Estate, as is due to the Respondents by the first Codicil, to be paid to the Respondents, with interest, do. 1714.

To which Bill the Appellant put in his Answer, Insisting he was Heir at Law to the Testator, and Intitled to all such Real Estate as was undisposed of by him, and that the Respondents *Radclyffe* and *Constable* are and at the Testators decease were Papists, or professed the Popish Religion. And as such the Appellant (then Defendant) was advised, That by vertue of the Statute of the 11th and 12th of King *William*, intituled, *An Act for the further preventing the Growth of Popery*, the Respondents were rendered Incapable of Purchasing any Manours, Lands, profits out of Lands, &c. And that all Interests or Profits out of Lands made to the Use of the Respondents were Void, and the Appellant being Heir at Law and a Protestant, Claimed the Benefit of the said Statute, and Insisted he was Intitled to the said *John Roopers* Real Estate, not Sufficiently Devised or Conveyed by him, Subject to such Incumbrances as he *bona fide* had charged thereon, and by Law was capable of so doing, and Demanded the Judgment of the Court whether he should be Decreed to joyn in the Sale. And the said *Robert Hewett* and *Daniel Hickman* by their Answer Insisted, that the Real Estate Devised by the said Will, ought to be considered as the Remaining part of the Testators Lands (after a Sufficient part sold for Payment of Debts and Legacies) and not as a Personal Estate, and that so much only ought to be sold as would be Sufficient to pay the Debts, and in case the Respondents were Incapable of taking, then the said *Hewett* and *Hickman* the Protestant Executors Claimed the said Real Estate, as being the only Devisees Capable to take the same, and insisted the first Codicil with Reference to the Devise of the Remainder of the Testators Lands, did not controul the Devise thereof mentioned in the Will, for that if the Respondents were Incapable to take the Lands as Purchasors by the Devise, they were to be Esteemed as Persons not in *Esse*, and that the Codicil in such Case as to the Devise of the said Lands, was Void in Law : But if the Respondents were capable to take, yet such Devise did not give the Remainder of the premisses to the Respondents for any greater Estate then for their Lives, and that the Reversion in Fee would belong to *Hewett* and *Hickman* ; And the said *Hewett* and *Hickman* brought their Cross Bill, insisting on the same Matter as they had done by their Answer to the Respondents Original Bill, and the several Defendants the Mortgagees and Creditors having put in their several Answers, and the Legatees having brought their Bill to be paid their Legacies.

27 June 1712 All the said Causes came on to be heard before the then Right Honourable the Lord Keeper and now Lord High Chancellor of *Great Britain*, who was pleased to declare (at the pressing Instance of the Appellants Council) he would have the Opinion of Judges before he would pronounce any Final Judgment in the said Causes, and a Case was made and argued before the Right Honourable the Lord Chief Justice *Parker*, the Right Honourable *Thomas* Lord *Trevor* Lord Chief Justice of the *Common Pleas*, and Mr. Justice *Powell*, and on the 28th of *October* last the Causes came again to be heard before his Lordship (assisted with the aforesaid Judges and the Right Honourable the Master of the *Rolls*) and the matter having been argued before them, their Lordships took time to consider thereof before they would Deliver their Opinions, and the Causes were again set down and came on for their Opinions the 25th Day of *February* last, and then Standing for Judgment, and the Lords, the Judges, and Master of the *Rolls* having Delivered their Opinions, his Lordship concurred in Opinion with the Master of the *Rolls*, the Lord Chief Justice *Trevor*, and Mr. Justice *Powell*, that the Devise of the Surplus of the purchase Money (after Debts and Legacies paid) to the Respondents *Constable* and *Radclyffe* was a good Devise notwithstanding the said Statute for Disabling *Papists* from Purchasing Lands (the Surplus Money being a Personal Interest in them) and therefore not made Void either by the Words or Intention of that Statute, and Decreed an Account of the said *John Rooper's* Real and Personal Estate, and also Decreed the Real Estate to be Sold to the best Purchasor, to be approved

proved by the Master wherein the Appellant the Heir at Law was to join, (he being first paid his Costs) and a Receiver of the Estate was to be appointed giving Security as Usual, and the Moneys arising by Sale with the Profits till Sale were to be applied in the first Place, to satisfy the 4000 l. and Interest and Costs, and then the Schedule Debts with Interest, and then all the other Debts which should not be satisfied by the Personal Estate, and then for payment of the Legacies with Interest and Costs, and the Creditors were to come in and prove their Debts, and some particular Directions were given as to Mr. *Plowdens* demands, and as to *Hewett* and *Hickman*, his Lordship was of Opinion that the first Codicil whereby the Testator gives all his Remainder whether in Lands or Personal Estate, to the Respondents *Radclyffe* and *Constable*, was a Revocation of the Devise in his Will of the Residue of his Real and Personal Estate to the Respondents *Constable*, *Radclyffe*, *Hewett*, and *Hickman*, and Dismissed the said *Hewett* and *Hickmans* Bill without Costs, and after the Debts, Legacies, Interest and Costs were paid, it was Decreed, that the Surplus Moneys, which should be then remaining, should be paid to to the Respondents *Radclyffe* and *Constable*, the Devisees, as by the Decree more at large appears.

The last Sessions of Parliament the said *Edward Rooper* appealed from the said Decree, and the House of Lords was pleased to direct, that the Estates should be Sold, and all the Debts and Legacies paid according to the said Decree, but the Surplus to be left in the Masters Hands till farther Order of this House.

Note, The said Estates have been since Sold, by the Approbation of the Master, pursuant to the said Decree, which Decree the Respondents humbly Insist is Just, and founded on good Reason, and Consonant to the Rules of Law and Equity.

- I. For that the Devise of the Surplus of the Purchase Money (after Debts and Legacies paid) to the Respondents is a good Devise, notwithstanding the said Statute for disabling Papists from Purchasing Lands, such Surplus Money being a Personal Interest in them, and therefore not made Void either by the Words or Intention of that Statute.
- II. For that the said *Radclyffe* and *Constable* were above the Age of 18 Years at the time of the making of the said Act.
- III. For that they are under no manner of Conviction whatsoever.
- IV. For that the said *John Rooper* might have Sold the said Estate in his Life Time and given the Residue of the Money to the said *Radclyffe* and *Constable*, and therefore had Power to dispose of such Residue by his Will.
- V. For that the Estate is Sold and converted into Money, which the said *Edward Rooper* can have no pretence to.

Wherefore the Respondents humbly hope, that the Appeal shall be Dismissed with Costs.

*Rob. Raymond.
J. Pratt.*

THE
Respondents CASE.

ROOPER }
ag^{ft.} }
RADCLYFFE }

To be heard at the Bar of the
House of Lords on ~~Monday, April~~
~~the 26th 1714.~~ *Friday*
April the 29. 1714.

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The true State and Condition of MICHAEL MOLYNS, Esq. as it now standeth

THat on the first day of May, 1646. Mr. *Molyns* was committed to Prison by Collonel *Blagg* then Governour of *Wallingford-Castle* for the late King, where he kept him Nine days in his Custody, and the second of May he Burnt down his House, with all his Writings, Goods, and Provisions, which were of very great Value.

In *Hillary Term*, 1647. Mr. *Molyns* Arrested the said *Blagg*, and the same Term Declared against him for 10000 *l.* damage, whereunto he pleaded not guilty, and immediately removed himself into the Upper-Bench Prison; but the Times being then troublesome, and the Assizes uncertain, Mr. *Molyns* could not proceed to Tryal till the Summer-Assizes, 1649. at which time Mr. *Molyns* had a fair Tryal, and a Verdict against *Blagg* for 5200 *l.*

In *Michaelmas Term* following, when Mr. *Molyns* came to have Judgement entred, *Blagg* moved the Court that he had not sufficient notice; whereupon the Court ordered a new Tryal, which was had the next Assizes following, and a Verdict for *Molyns* against *Blagg* for 8000 *l.* damage and 40 *s.* cost.

The next ensuing Term, Mr. *Molyns* entred his Judgement, and had 200 *l.* more awarded him for encrease of Cost; but before he could get it entred up, he was enforced to give Bond to Mr. *Hienley* and Mr. *Whitweek* Masters of the Office for the Sum of 400 *l.* damage clear.

In *Easter Term*, 1650. Mr. *Molyns* charged *Blagg* with the Execution in the Roll and in the Martials Book, for the said sum of 8202 *l.*

That Sir *John Lenthall* voluntarily suffered *Blagg* to Escape, who was since taken in Arms at *Worcester-fight*, and remained sometime a Prisoner in the *Tower*.

Afterwards, Mr. *Molyns* commenced his Action at Law against Sir *John Lenthall* upon the said Escape, who presently for delay, preferred his Bill in *Chancery*, and got an Injunction to stay Mr. *Molyns* proceedings at Law, and kept him in that Court above Two years; so that Mr. *Molyns* could not have the benefit of the Law as a Subject ought.

After this long delay, Mr. *Molyns* got the businesse dismissed out of *Chancery*, and then moved the Upper Bench Court that Sir *John Lenthall* might plead that they might go to Tryal, and thereupon the Court gave a Rule that Sir *John Lenthall* should plead an issuable Plea, or else Judgement to be entred peremptorily by default within some few days after.

But contrary to the Rule, Sir *John Lenthall* pleaded an Outlary after Judgement at a strange Suit, which ought to have been pleaded the same or the next Term after: the Bill was Filed against him, and with this dilatory trick and nicety in Law, hath kept Mr. *Molyns* from proceeding against him for above these Seven years last past.

Whereupon, Mr. *Molyns* upon search finding several Errors in the Outlary, got the Errors certified from the Justice of the Court of Common-Pleas to the Upper Bench.

That Mr. *Molyns* did apply himself to several Committees of Parliament, where Sir *John Lenthall* upon Examination about *Blagg*, slightly made answer that he was now a Prisoner in the *Tower*, where Mr. *Molyns* or any other might take their Course against him.

That Mr. *Molyns* hath expended in the prosecution of this business above 800 *l.* besides his bond given for the Damages clear, to the utter ruine of himself and family, which hath so much impoverished him that he is render'd altogether incapable to make any further proceedings, therein Sir *John Lenthall* having often given out speeches that he will spend 1000 *l.* before Mr. *Molyns* shall recover a penny.

That if Sir *John Lenthall* shall be permitted to make their wilful Escapes, it will be a distraction to all those that desire to come by their Just debts by Law and a dishonour to all Justice.

All which is humbly left to the Consideration of this Right Honourable Parliament to doe therein as you shall think fit.